



Committee: Direct to Council
Committee Review: N/A
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: To receive testimony/final action - vote expected
Keywords: #COVID19PublicHealthOrder

AGENDA ITEMS 2B & 2C
April 27, 2021
**Introduction/Public
Hearing/Action**

SUBJECT

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

Lead Sponsors: Council President Hucker and Council Vice President Alborno

EXPECTED ATTENDEES

Dr. Travis Gayles, County Health Officer

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

Silvia Kinch, County Attorney's Office

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Whether to continue restrictions to limit the spread of COVID-19 that are greater than the Governor's restrictions due to the numbers of infections in the County.
- Whether to add phases for reopening the County based on the percentage of the County population receiving COVID-19 vaccinations.

DESCRIPTION/ISSUE

- The Council sitting as the Board of Health, would introduce a resolution to adopt a Fifth Amended Board of Health Regulation to prevent the spread of COVID-19 in the County, hold a public hearing on the Regulation, and act on it. This regulation, if adopted, would add phases for reopening the County based on the percentage of the County population receiving COVID-19 vaccinations.

SUMMARY OF KEY DISCUSSION POINTS

This report contains:

Staff Report

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Proposed Fifth Board of Health Regulation (showing changes)

©1

Proposed Fifth Board of Health Regulation (Clean)

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MEMORANDUM

April 23, 2021

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

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

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

The Council, sitting as the Board of Health, is tentatively scheduled to introduce, hold a public hearing, and act on a Fifth Amended Board of Health Regulation to Prevent the Spread of COVID-19 in the County on April 27, 2021.

Background

Maryland Governor Hogan declared a state of emergency and catastrophic health emergency on March 5, 2020, and renewed it on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, January 21, 2021, February 19, 2021, March 18, 2021, and on April 16, 2021 to control and prevent the spread of SARS-CoV-2 also known as COVID-19 within the state and both the state of emergency and catastrophic health emergency still exist in Maryland.

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

Governor Hogan issued Executive Order No. 21-03-09-01 on March 9, 2021. Executive Order No. 21-03-09-01 removed many restrictions contained in prior Orders and retracted the authority granted to the County by the Governor to issue a Local Order that was more restrictive than the Governor's Order as of March 12, 2021 at 5 p.m. Although the Governor retracted this authority, the Council, sitting as the Board of Health, has independent authority to issue a public health regulation to continue restrictions to limit the spread of COVID-19 in the County. Md. Health-General Code Ann. § 3-202(d) provides:

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

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

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

Based on this authority, the Council, sitting as the Board of Health, adopted a Board of Health Regulation in Resolution No. 19-760 on March 12, 2021. The Board of Health Regulation adopted in Resolution No. 19-760 loosened some of the local restrictions then in place. On March 19, 2021, the Council, sitting as the Board of Health, adopted the First Amended Board of Health Regulation updating the restrictions on sports events in Resolution No. 19-768. On March 26, 2021, the Council, sitting as the Board of Health, adopted the Second Amended Board of Health Regulation updating the restrictions on spectators at sports events in Resolution No. 19-778. On April 13, 2021, the Council, sitting as the Board of Health, adopted the Third Amended Board of Health Regulation adding guidance for the operation of summer camps in Resolution No. 19-790. On April 20, 2021, the Council, sitting as the Board of Health adopted a Fourth Amended Board of Health Regulation adding guidance for school graduation ceremonies in Resolution No. 19-794. This Resolution, if adopted, would amend Resolution No. 19-794 by adding phases for reopening based on the percentage of the County population receiving COVID-19 vaccinations.

The First Amended Board of Health Regulation

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

1. contact tracing with an attendance tracking sheet that must be completed for all activities conducted;
2. requiring that face coverings be worn per guidelines from the American Academy of Pediatrics;
3. social distancing with at least 6 feet between all participants to the extent possible; and

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

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

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

Second Amended Board of Health Regulation

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

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

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

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

Third Amended Board of Health Regulation

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

1. Only campers from Maryland, Virginia, and DC would be permitted to attend;
2. Camps must separate participants into groups of 25 for indoor activities and 50 for outdoor activities;
3. Members from a group would not be permitted to mix with members of a different group at the camp;
4. Each camp would be required to have a COVID Protocol Plan approved by the Health Officer or the Health Officer's designee;
5. The Plan would be required to include strategies for social distancing and infection control strategies;

6. A participant who tests positive or who is in close contact with someone who has tested positive would be sent home or remain in quarantine;
7. Sports activities would be required to follow the rules for youth sports;
8. Additional requirements for a residential camp would include a cap of 25 persons in a sleeping area with social distancing and infection control strategies; and
9. Members of each sleeping group must stay with their group for the entire camp session.

Fourth Amended Board of Health Regulation

The Fourth Amended Board of Health Regulation added guidance for school graduation ceremonies. The guidance includes the following infectious disease controls:

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

Fifth Amended Board of Health Regulation

The Fifth Amended Board of Health Regulation would add phases for reopening the County based on the percentage of the County population receiving a first COVID-19 vaccination. Currently, 48.4% of the County population has received at least one dose of the COVID-19 vaccination. The 3 phases of reopening would be automatically triggered when the Health Officer

reports the vaccination progress to the Board of Health. The reopening would require continued face covering usage and social distancing. The phases would be:

1. **at 50%** of the population receiving at least one dose of COVID-19 vaccine:
 - (a) gathering limits increase to 50 people indoors and 100 people outdoors;
 - (b) businesses limited to 25% capacity move to 50% capacity if they do not sell or permit the consumption of food or drink;
 - (c) camps can move to the gathering limits of 50 indoors and 100 outdoors;
 - (d) escape rooms can allow 10 people per game;
 - (e) museums and galleries may reopen touch exhibits;
 - (f) malls may reopen pedestrian concourses and return tables and chairs inside; and
 - (g) sports move to 50 people indoors and 100 outdoors with a similar number of spectators;
2. **at 60%** of the population receiving at least one dose of COVID-19 vaccine;
 - (a) gathering limits increase to 250 people indoors and no limit outdoors;
 - (b) most businesses move to 75% capacity and may sell food and drink for consumption while seated;
 - (c) camps can increase to gathering limits of 250 people indoors and no limit outdoors and permit campers from outside the DMV;
 - (d) convention and banquet facilities are limited to 50% of the facilities maximum capacity per State restrictions;
 - (e) cigar and hookah bars may permit smoking outdoors;
 - (f) food service establishments may move to 75% of maximum capacity;
 - (g) religious facilities may move to 75% of maximum capacity; and
 - (h) sports may increase capacity for participants and spectators to 250 people indoors and no limit outdoors; and
3. **at 50%** of the population being **fully vaccinated** with all required doses of the COVID-19 vaccine, all conduct and business in the County must follow any State or MDH requirements in place at the time.

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

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

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

Future Regulations

The COVID-19 public health emergency has been a world-wide pandemic for more than one year. The restrictions necessary to limit the community spread of COVID-19 have changed over the past year as the rate of infections, hospitalizations, and deaths has changed. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions and further mutations of the virus.

As the percentage of County residents are vaccinated against this disease, the community spread should lessen if we continue to practice limiting large gatherings, using face coverings, and socially distancing. This Board of Health regulation would reopen the County based on the rate of vaccinations absent an increase in community transmission metrics that would be contrary to the public health.

This packet contains:

	<u>Circle #</u>
Proposed Fifth Amended Board of Health Regulation showing changes	1
Proposed Fifth Amended Board of Health Regulation (Clean)	21

Resolution No.: _____
Introduced: _____
Adopted: _____

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

Lead Sponsors: Council President Hucker and Council Vice President Alborno

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

Background

1. Lawrence J. Hogan, the Governor of the State of Maryland declared a state of emergency and catastrophic health emergency on March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 31, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, January 21, 2021, February 19, 2021, [and on] March 18, 2021, and on April 16, 2021 to control and prevent the spread of SARS-CoV-2 also known as COVID-19 within the state and both the state of emergency and catastrophic health emergency still exist in Maryland.
2. The effects of COVID-19 require that local officials be vigilant in advising all individuals in Montgomery County, Maryland of measures they can take to protect health, safety, and welfare.
3. There are multiple COVID-19 variants with the three primary variants being the United Kingdom variant (known as B.1.1.7) which may be associated with an increased risk of death, the South Africa variant (known as B.1.351); and the Brazil variant (known as P.1).
4. The potential consequences of emerging variants include the ability to: spread more quickly in people; cause milder or more severe disease in people; evade detection by specific diagnostic tests; decreased susceptibility to therapeutic agents such as monoclonal antibodies; and further delay or possibly evade natural or vaccine induced immunity.
5. Montgomery County has confirmed cases of all three primary variants.
6. It is imperative to control the community spread of COVID-19 to avoid further mutations which give rise to new variants until such time as a sufficient portion of the population of Montgomery County is inoculated against COVID-19.

7. To date only [26.2] 48.4% of the population of Montgomery County have [been vaccinated for] received at least one dose of the vaccination against COVID-19.
8. COVID-19 in Montgomery County has caused disease in Montgomery County which thus far has claimed the lives of [1443] 1460 Montgomery County residents.
9. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions and further mutations.
10. To reduce the threat to human health caused by transmission of COVID-19 and to protect and save lives, it is necessary and reasonable that individuals in Montgomery County continue to engage in social distancing, use of face coverings, and refrain from congregating in large groups.
11. It continues to be necessary to control and direct the occupancy and use of buildings and premises, as well as places of amusement and assembly within Montgomery County.
12. Due to Montgomery County's large population and the amount of interstate travel between the District of Columbia and the Commonwealth of Virginia, disease can spread faster.
13. On March 9, Director of the National Institute of Allergy & Infectious Diseases at the NIH and Chief Medical Advisor for COVID-19 to President Biden, Dr. Anthony Fauci, told the Montgomery County Council "Now is the time to keep our foot on the accelerator with regard to adherence to public health measures, such as masking, physical distancing, and other measures that we know work to protect people from the SARS CoV-2 virus, while we are ramping up efforts to vaccinate as many people as we can as quickly as possible."
14. On March 1, Centers for Disease Control and Prevention ("CDC") Director Rochelle Walensky said, "Please hear me clearly. At this level of cases with variants spreading, we stand to completely lose the hard-earned ground we have gained. These variants are a very real threat to our people and to our progress. Now is not the time to relax the critical safeguards that we know could stop the spread of COVID-19 in our communities, not when we are so close."
15. Both County Health Officer, Dr. Travis Gayles, and County Director of Emergency Management, Dr. Earl Stoddard, recommended a progressive, staged relaxation of restrictions so officials can disaggregate the data and assess the impact of the relaxation of the restrictions in other jurisdictions before deciding what is safest for the residents of Montgomery County.
16. Pursuant to Md. Code Ann. Local Government §10-328(b) a county may provide for the prevention of contagious diseases in the County.
17. A local Board of Health may, pursuant to Md. Code Ann. Health Gen. §3-202(d), adopt and enforce rules and regulations on any cause of disease in the County.

18. Pursuant to Montgomery County Code 2-65, the County Council is and may act as the County Board of Health.
19. The Council, sitting as the Board of Health, adopted a Board of Health Regulation in Resolution No. 19-760 on March 12, 2021. The Council adopted the First Amended Regulation on March 19, 2021 in Resolution No. 19-768. The Council adopted the Second Amended Regulation on March 26, 2021 in Resolution No. 19-778. The Council Adopted the Third Amended Board of Health Regulation on April 13, 2021 in Resolution No. 19-790. The Council Adopted the Fourth Amended Board of Health Regulation on April 20, 2021 in Resolution No. 19-794. This Board of Health Regulation would amend Resolution No. [19-790] 19-794.
20. Rule 4(d) of the Council's Rules of Procedure provide that before the Board of Health adopts a regulation, the Council President must advertise a public hearing in a newspaper circulated throughout the County at least 15 days before the hearing and notify the governing body or chief executive officer of each municipality in the County at least 15 days before the hearing. Rule 4(d) allows the President to waive these notice provisions if a public health emergency requires immediate action. The Council President has waived these notice requirements because of the public health emergency caused by COVID-19.
21. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing that this public health regulation is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, finds that this is an emergency and approves the following regulation amending the regulation adopted by Resolution No. [19-790] 19-794:

1 **1. Definitions.**

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

4 b. “Convention and Banquet Facilities” means convention facilities, conference
5 facilities, banquet and catering facilities, community halls, and Social Clubs,
6 including without limitation, hotel ballrooms.

7 c. “Face Covering” means a covering that fully covers a person’s nose, mouth, and
8 chin and is secured to the person’s head, including cloth face coverings, scarves,
9 and bandanas. It does not include face covering with a valve; or solely wearing a
10 face shield.

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

13 [c] e. “Foodservice Establishment” means a restaurant, bars, or other similar
14 establishments that sell food or beverages for consumption on-premises in
15 Montgomery County and social and fraternal clubs with dining facilities.

16 [d] f. “Graduation” means any ceremony conferring degrees or diplomas, such as at a
17 college or school.

18 [e] g. “Maximum Occupancy” means the maximum occupancy load of a facility under
19 the applicable fire code or pursuant to applicable laws, regulations, and permits. If
20 a facility is not rated for maximum occupancy, a person per square foot option must
21 be used to calculate maximum occupancy.

22 [f] h. “Outdoor Graduation” means a graduation held in an Outdoor Venue.

23 [g] i. “Outdoor Venue” means any outdoor venue in the County at which:

24 (i) live performances occur, motion pictures are shown, or sporting events
25 occur (including, without limitation, major league, professional, minor
26 league, semiprofessional, amateur, recreational, motor sports, and collegiate
27 sporting events); and

28 (ii) entry is limited to ticketed customers.

29 “Outdoor Venue” does not include golf courses and driving ranges, outdoor archery
30 and shooting ranges, marinas and watercraft rental businesses, campgrounds, horse
31 boarding and riding facilities, drive-in movie theaters, outdoor swimming pools,

32 outdoor day camps, amusement parks, tour boats, miniature golf establishments,
33 and go-kart tracks.

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

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

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

45 [j.] m. “*Religious Facilities*” means Churches, synagogues, mosques, temples, and other
46 similar religious facilities of any faith.

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

51 2. Face Coverings.

52 a. *Requirement to Wear Face Coverings.*

53 i. All persons in the County [over the age of two (2) years old] must wear face
54 coverings:

55 1. pursuant to [State Executive Order [21-03-09-01](#) paragraphs IV.a.i.1
56 – IV.a.ii] CDC or Maryland Department of Health (“MDH”)
57 guidance, whichever is stricter;

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

60 3. when actively engaged in sports – except as recommended by the
61 [American Academy of Pediatrics](#), including guidance that allows

62 the removal of face coverings during vigorous outdoor exercise in
63 high heat and high humidity conditions.

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

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

66 **3. General Operating Requirements.**

67 a. Unless expressly stated to the contrary, all businesses, organizations,
68 establishments, and facilities that are permitted to operate under this Order [shall]
69 must:

70 i. require strict adherence to social distancing pursuant to CDC or MDH
71 guidance, whichever is stricter [of greater than 6 feet between:

72 1. employees and customers; and

73 2. individuals or groups of individuals from different households;]

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

75 iii. provide employees with guidance and training to reflect updated [Centers
76 for Disease Control and Prevention (“CDC”)] CDC guidance for their
77 workplace;

78 iv. use CDC and Environmental Protection Agency (“EPA”) approved
79 disinfectants to clean spaces daily; and

80 v. require employees to wash their hands hourly.

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

84 **4. Letters of Approval.**

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

88 b. Failure to obtain a Letter of Approval prior to proceeding with an event will be
89 considered to be a violation of this Order and could subject the requestor, organizer,
90 and venue to the appropriate fines and sanctions.

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

94 **5. Gatherings.**

- 95 a. Unless expressly stated in another paragraph of this Order:
- 96 i. Outdoor gatherings of more than 50 people are prohibited.
 - 97 ii. Indoor gatherings of more than 25 people are prohibited.
 - 98 iii.. The size of the location and venue of any gathering must accommodate
99 applicable social distancing for the number of attendees.
 - 100 iv. If more than one household is present at a gathering each individual present
101 at the gathering must be counted for purposes of determining compliance.

102 **6. Businesses that May Open.**

- 103 a. *Foodservice Establishments.*
- 104 i. Total number of persons permitted in the indoor dining portion of the
105 foodservice establishment shall not exceed 50% of the maximum
106 occupancy.
 - 107 ii. Outdoor dining at a foodservice establishment must follow [MDH Order No](#)
108 [2021-03-09-01](#) paragraph 2.A.
 - 109 iii. May resume buffet service pursuant to [MDH Order No 2021-03-09-01](#).
 - 110 iv. Must require all customers to wear Face Coverings unless actively engaged
111 in the act of eating or drinking (e.g. while seated at the table and talking but
112 not eating or drinking).
 - 113 v. Must maintain a daily record of the date, time, name and contact
114 information for at least one person for each dining party and maintain the
115 daily record for at least 30 days, to assist with contact tracing: date;
 - 116 vi. Must post signage at each outdoor dining entrance advising customers and
117 visitors that:
 - 118 1. they must comply with the Face Covering requirements at all times
119 when they are not actively eating or drinking;
 - 120 2. they must maintain social distancing of at least 6 feet when waiting
121 to be seated; and

- 122 3. failure to wear Face Coverings or maintain social distancing may
123 result in their being refused service and found to be in violation of
124 this order.
- 125 b. *Cigar Bars/Hookah Bars/Vape Shops.* May open solely to sell retail goods.
126 Smoking on site is strictly prohibited.
- 127 c. *Malls.*
- 128 i. Shopping centers with one or more enclosed pedestrian concourses may
129 maintain pedestrian concourses and other interior common areas open, but
130 solely to the extent necessary for the general public to enter and exit retail
131 establishments.
- 132 ii. Food courts located inside indoor malls shall follow paragraph 6.a.
- 133 iii. Congregating in any indoor area outside of retail stores is prohibited.
- 134 iv. Malls shall remove tables, chairs, benches, or any other items which could
135 encourage congregating from indoor areas outside of retail stores.
- 136 d. *Religious Facilities.*
- 137 i. The total number of persons permitted in a religious facility may not exceed
138 50% of the facility's maximum occupancy.
- 139 ii. Occupancy numbers shall include faith leaders, volunteers, and
140 congregants.
- 141 iii. Must follow spacing, screening, cleaning, and music guidelines as stated in
142 the County's [Religious Facilities Reopening](#) page.
- 143 e. *Sports.*
- 144 i. Except as provided in paragraph 6(e)(vii), all organized youth sports may
145 be played either indoors or outdoors only after a COVID Protocol Plan is
146 approved by the County Health Officer or the Officer's designee. The Plan
147 must align with guidelines by the [Centers for Disease Control and
148 Prevention (CDC)] [CDC](#), Maryland State Department of Education
149 (MSDE), and Montgomery County, and include a plan for;
- 150 1. contact tracing with an attendance tracking sheet that must be
151 completed for all activities conducted;

- 152 2. requiring that face coverings be worn per guidelines from the
- 153 American Academy of Pediatrics;
- 154 3. social distancing with at least 6 feet between all participants to the
- 155 extent possible; and
- 156 4. requiring the use of a student attestation form or COVID-19
- 157 Athlete/Coach Monitoring Form at all activities conducted.

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

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

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

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

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

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

- 180 1. the site has a barrier to delineate the area for spectators from the area
- 181 for the participating athletes and coaches;

- 182 2. the area for the spectators is large enough to provide for social
183 distancing between all spectators from different households; and
184 3. all spectators wear face coverings and practice social distancing of
185 at least 6 feet.

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

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

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

194 a. *Fitness Centers.*

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

198 b. *Bowling Alleys.*

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

204 c. *Escape Rooms.*

- 205 i. Only private games of a maximum of 6 people all permitted.
206 ii. All games are by appointment only and must be staggered so as to prevent
207 patrons from interacting with others outside of their group.
208 iii. Before and after each game, all items in game rooms and items provided to
209 patrons (including but not limited to lock, props, and any touchable
210 surfaces) must be thoroughly cleaned using CDC and EPA approved
211 disinfectants.

212 d. *Museums and Art Galleries.*

- 213 i. Exhibits requiring contact (for example “please touch” exhibits or other
214 interactive displays) must remain closed.
- 215 e. *Personal Services.*
- 216 i. Staff are required to wear gloves, and any other Personal Protective
217 Equipment as appropriate to their workplace and provided service.
- 218 f. *Pools.*
- 219 i. Must strictly comply with any guidance issued by DHHS.
- 220 g. *Retail Establishments.*
- 221 i. Employees must use any additional Personal Protective Equipment as
222 appropriate to their workplace.
- 223 h. *Recreation Centers.*
- 224 **8. Other Businesses, Organizations, Establishments, and Facilities that may open at**
225 **25% capacity provided they do not sell or permit food for consumption at the facility.**
- 226 a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-
227 go-rounds and roller coasters.
- 228 b. *Bingo halls.*
- 229 c. *Go-kart tracks.*
- 230 d. *Roller skating rinks.*
- 231 e. *Social Clubs.*
- 232 f. *Theaters.* This Order controls the occupancy and use of theatres in Montgomery
233 County at which live performances occur or motion pictures are shown
234 (“Theaters”).
- 235 g. *Trampoline Parks.*
- 236 h. Any other establishment not listed above that is subject to the admission and
237 amusement tax under Title 4 of the Tax-General Article of the Maryland Code.
- 238 **9. Camps.**
- 239 a. *General Requirements.*
- 240 i. Only campers from Maryland, Virginia, and District of Columbia are
241 permitted to attend youth camps in Montgomery County.
- 242 ii. Participants must be separated into groups of 25 participants indoors and
243 groups of 50 participants outdoors. Participants include all campers, staff,

- 244 and any volunteers. Participants must not mix with members of another
245 group in the camp.
- 246 iii. Must have a COVID Protocol Plan that is approved by the Health Officer
247 or the Health Officer's designee for daily monitoring of the health and
248 safety of campers and staff which includes:
- 249 1. A daily COVID-19 symptom and exposure attestation form to be
250 completed by campers (or their parent/guardian) and staff. These
251 must be maintained in such a manner so as to preserve
252 confidentiality.
- 253 2. Excluding staff or campers, pursuant to CDC guidance, who have
254 tested positive for COVID-19, are symptomatic, or who have had a
255 known exposure to a confirmed case of COVID-19.
- 256 3. Adopting infection control strategies which include:
- 257 a. Social distancing;
- 258 b. Hand hygiene;
- 259 c. Cough and sneeze hygiene;
- 260 d. Proper use, removal, and washing of cloth face coverings;
- 261 e. Providing policies and education on COVID-19 symptoms
262 and response;
- 263 f. Avoiding the use of items that are not easily cleaned and
264 disinfected;
- 265 g. Ensuring adequate supplies of tissues, hand soap, alcohol-
266 based hand sanitizer, EPA approved cleaning products for
267 COVID-19 disinfection suited for the facility;
- 268 h. Effective cleaning and disinfection of surfaces; and
- 269 i. regularly reviewing and incorporating into the Plan any CDC
270 guidance for youth and summer camps that does not conflict
271 with this Regulation.
- 272 b. *Camp Food Service Operations.*
- 273 i. Camp food service operations must ensure there are no shared items such
274 as serving utensils or condiment containers.

- 275 ii. Must ensure physical distancing for campers waiting for food service and
276 while dining.
- 277 c. *Youth Camp Programming and Training.*
- 278 i. Field Trips and Camp Transportation.
- 279 1. All transportation provided by camps should follow social
280 distancing guidelines for occupants and should prevent mixing of
281 camp groups.
- 282 2. Staff and campers must use face coverings during transportation and
283 when in public areas.
- 284 3. Clean and disinfect vehicles after each use.
- 285 ii. Sports activities.
- 286 1. Limited to groups of 25 participants indoors and groups of 50
287 participants outdoors. Participants include all campers, staff, and
288 any volunteers. Participants must not mix with participants from
289 another group.
- 290 2. Close physical contact during sports activities should be avoided
291 whenever possible and masks must be worn when actively engaged
292 in sports, except as recommended by the [American Academy of](#)
293 [Pediatrics](#).
- 294 3. Equipment must be cleaned and disinfected after each use.
- 295 d. *Residential Camps.* All residential youth camps must implement the following
296 measures in addition to the measures described above:
- 297 i. Each group of campers/staff stays with their sleeping group, do not mix
298 campers or staff among groups for the duration of the session.
- 299 1. Maximum capacity for each sleeping area is groups of 25 adults and
300 campers.
- 301 2. For bunk beds, if both upper and lower beds are occupied, sleep with
302 the top bunk individual's head above the lower bunk individual's
303 feet.
- 304 3. Minimum of 6 feet between each occupied bunk or bed, provide
305 maximum distance between each individual's head.

- 306 4. Complete COVID-19 temperature and symptom screening for staff
307 and campers every morning.
- 308 ii. Residential camps with a COVID-19 positive or probable case will send all
309 campers/staff in the group to their homes or quarantine in place with
310 additional requirements based on consultation with the local health
311 department.
- 312 iii. Clean and disinfect high touch surfaces in bathroom facilities and sleeping
313 quarters daily.

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

- 315 a. *Generally.*
- 316 i. Persons/groups of guests not of the same household must maintain a
317 minimum of 6 feet of social distance at all times, including during any
318 graduate procession.
- 319 ii. All persons present must wear face coverings consistent with paragraph 2
320 of this Regulation.
- 321 iii. All persons present must be included in the numerical attendance totals.
322 This includes students, faculty, staff, workers, vendors, guests, and
323 speakers.
- 324 iv. Any person with a fever or who is exhibiting symptoms of COVID-19, must
325 not attend a graduation ceremony.
- 326 v. A record of all individuals who attended the graduation must be maintained
327 for at least 30 days to assist with contact tracing. Information collected must
328 include name, date, phone number and email (if available). This
329 information must be provided within 24 hours if requested by MCDHHS if
330 a case of COVID-19 associated with the graduation occurs. Seating charts
331 must also be provided if used.
- 332 vi. The school must post the following signage:
- 333 1. At any entrance(s) stating that nobody with a fever or symptoms of
334 COVID-19 is permitted to enter the venue and that individuals must
335 wear a mask or face covering.

- 336 2. Throughout the venue reinforcing social distancing, face covering
337 usage, and hand hygiene policies.
- 338 3. At areas of entry and egress to allow the one-way flow of attendees.
- 339 4. On floors and sidewalks both inside and outside the venue to provide
340 physical guides to ensure individuals remain at least 6 feet apart in
341 queuing areas.
- 342 5. Marking seating arrangements to delineate physically distanced
343 seating.
- 344 vii. Must prohibit congregating or gathering in common areas both inside and
345 outside of the venue before or after the graduation ceremony.
- 346 viii. Prohibit group or staged photography.
- 347 b. *Ceremony.*
- 348 i. Ceremonies must not exceed 2 hours, but the venue may be open for an hour
349 in advance and after the ceremony to prevent crowding at points of ingress
350 and egress.
- 351 ii. No more than 10 persons must be permitted on the stage at any given time.
352 Persons on the stage must be spaced at least 6 feet apart.
- 353 iii. Only single performers/speakers must be allowed (e.g., no choirs or bands)
354 during the ceremony.
- 355 1. A minimum of 12 feet must be maintained from the audience if
356 performers/speakers are masked.
- 357 2. A minimum of 18 feet must be maintained from the audience if
358 performers/speakers are unmasked.
- 359 3. Use of shared objects during the graduation should be minimized
360 (e.g. microphones).
- 361 4. Diplomas must be distributed with no handshake or physical
362 contact.
- 363 5. No food or beverage service is permitted during ceremonies
364 (including concession stands).
- 365 6. If permitted by the venue, guests may bring their own
366 beverages/snacks which may only be consumed while seated.

- 367 7. All guests must be seated and remain in their seats throughout the
368 ceremony.
- 369 8. Any items handed out to guests must be single use or cleaned and
370 disinfected between each guest use (e.g., assisted audio devices).
- 371 c. *Communication and Response.* Schools must develop a comprehensive plan to
372 communicate measures in place to prevent the spread of COVID-19 with all
373 attendees of the graduation. The plan must:
- 374 i. Identify and address potential language, cultural, and disability barriers in
375 the communication plan.
- 376 ii. Communicate COVID-19 policies to staff (including vendors), guests and
377 students, (e.g., on school/graduation website, social media sites, prominent
378 signage at entrances and throughout the venue, message screens and public
379 announcements before and during the graduation).
- 380 iii. If an attendee becomes sick while at the graduation ceremony, the school
381 must have a protocol in place for that individual to immediately leave the
382 venue. If they are unable to immediately leave (e.g., they need to wait for
383 a ride), there should be a process that allows them to isolate until they are
384 able to leave. People who are sick should go home or to a healthcare
385 facility, depending on the severity of their symptoms. Public transportation
386 should not be used.
- 387 iv. Must identify a point of contact that staff or an attendee can notify if they
388 test positive for COVID-19 within the 2 weeks from the date of the
389 graduation and choose to disclose this information.
- 390 v. In the event of a positive test result, the COVID-19 Point of Contact must
391 notify the Montgomery County Department of Health and Human Services
392 (240-777-1755) within one business day of the notice and provide them
393 with the name and contact information of the positive case.
- 394 vi. Put systems in place to encourage self-reporting.
- 395 d. *Indoor Graduations.*
- 396 i. Total number of persons permitted at an indoor graduation is limited to 25%
397 of the maximum occupancy of the space or 250 people, whichever number

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

421 **11. Impact of Increased Vaccination.**

- 422 a. Upon the Board of Health’s receipt of notification by the Health Officer, or the
423 Health Officer’s designee, that 50% of the population of Montgomery County has
424 received at least one dose of a vaccination against COVID-19, the following must
425 automatically occur provided continued face covering usage and social distancing
426 are strictly followed:
- 427 i. Gathering limits, as stated in paragraph 5 of this Regulation will increase to
428 50 people indoors and 100 people outdoors.

- 429 ii. Businesses, Organizations, Establishments, and Facilities named in
430 paragraph 8 may increase to 50% maximum capacity provided they do not
431 sell or permit the consumption of food or drink at the facility.
- 432 iii. Camps, including Youth Camp Programming and Training and Residential
433 Camps, may increase the number of participants to 50 indoors and 100
434 outdoors.
- 435 iv. Escape rooms may allow 10 people per game, consistent with the table
436 limitations present at restaurants.
- 437 v. Museums and Art Galleries may reopen please touch exhibits or interactive
438 displays.
- 439 vi. Malls may fully reopen pedestrian concourses and may return tables, chairs,
440 benches and other items to indoor areas outside of retail stores.
- 441 vii. Sports:
- 442 1. total number of people present for sports played indoors may
443 increase to 50 people indoors and 100 people outdoors; and
- 444 2. total number of spectators present may increase to 50 spectators
445 indoors and 100 spectators outdoors.
- 446 b. Upon the Board of Health's receipt of notification by the Health Officer, or the
447 Health Officer's designee, that 60% of the population has received at least one dose
448 of a vaccination against COVID-19, the following must automatically occur
449 provided face covering usage and social distancing are strictly followed:
- 450 i. Gathering limits, as stated in paragraph 5 of this Regulation will increase to
451 250 people indoors with no limitation outdoors except as would be required
452 to comply with social distancing.
- 453 ii. Businesses, Organizations, Establishments, and Facilities named in
454 paragraphs 7 and 8 may increase to 75% maximum capacity and may sell
455 and permit the consumption of food and drink at the facility provided:
- 456 1. Food and drink is only consumed while seated in a socially distant
457 manner; and
- 458 2. Food and drink are not consumed while standing or walking.
- 459 iii. Camps may:

- 460 1. Increase the number of participants pursuant to the gathering limits
461 stated in paragraph 11(b)(i); and
- 462 2. Permit campers from outside of Maryland, the District of Columbia,
463 or Virginia.
- 464 iv. Convention and Banquet Facilities are limited to 50% of the facility's
465 maximum occupancy.
- 466 v. Cigar Bars, Hookah Bars, Vape Shops may permit smoking outdoors.
- 467 vi. Foodservice establishments may increase indoor capacity to 75% of their
468 maximum capacity.
- 469 vii. Religious facilities may increase capacity to 75% of the facility's maximum
470 capacity.
- 471 viii. Sports may:
- 472 1. Increase the number of participants and spectators pursuant with the
473 gathering limits stated in paragraph 11(b)(i); and
- 474 2. Engage in play with teams from outside of Maryland, the District of
475 Columbia, and Virginia.
- 476 c. Upon the Board of Health's receipt of notification by the Health Officer, or the
477 Health Officer's designee, that 50% of the population has been fully vaccinated
478 with all required doses of a COVID-19 vaccine, the following must automatically
479 occur provided face covering usage and social distancing continue to be strictly
480 followed:
- 481 i. All conduct and business in Montgomery County may follow any State or
482 MDH requirements that are in place at that time.
- 483 d. If, after a review of the Community Transmission Metrics, the Health Officer
484 determines that the continued automatic relaxation of restrictions is contrary to the
485 public health and could lead to the continued spread of COVID-19 or any associated
486 variant, the Health Officer, or the Health Officer's designee, must notify the Board
487 of Health of those concerns, and any continued relaxation of restrictions must be
488 suspended pending a hearing before the Board of Health.

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

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

499 **[12] 13. Enforcement.** This Order must be enforced by any County department or agency that
500 has authority over the subject matter of any particular provision and the Montgomery
501 County Police Department.

502 **[13] 14. Applicability.** This regulation applies Countywide.

503 **[14] 15. Severability.** If the application of this regulation or any part of it to any facts or
504 circumstances is held invalid, the rest of the regulation and its application to all other facts
505 and circumstances is intended to remain in effect.

506 **[15] 16. Effective Date.** This regulation takes effect on [April 20, 2021] April 27, 2021 at 5
507 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Resolution No.: _____
Introduced: _____
Adopted: _____

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

Lead Sponsors: Council President Hucker and Council Vice President Alborno

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

Background

1. Lawrence J. Hogan, the Governor of the State of Maryland declared a state of emergency and catastrophic health emergency on March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 31, 2020, August 10, 2020, September 8, 2020, October 6, 2020, October 29, 2020, November 25, 2020, December 23, 2020, January 21, 2021, February 19, 2021, March 18, 2021, and on April 16, 2021 to control and prevent the spread of SARS-CoV-2 also known as COVID-19 within the state and both the state of emergency and catastrophic health emergency still exist in Maryland.
2. The effects of COVID-19 require that local officials be vigilant in advising all individuals in Montgomery County, Maryland of measures they can take to protect health, safety, and welfare.
3. There are multiple COVID-19 variants with the three primary variants being the United Kingdom variant (known as B.1.1.7) which may be associated with an increased risk of death, the South Africa variant (known as B.1.351); and the Brazil variant (known as P.1).
4. The potential consequences of emerging variants include the ability to: spread more quickly in people; cause milder or more severe disease in people; evade detection by specific diagnostic tests; decreased susceptibility to therapeutic agents such as monoclonal antibodies; and further delay or possibly evade natural or vaccine induced immunity.
5. Montgomery County has confirmed cases of all three primary variants.
6. It is imperative to control the community spread of COVID-19 to avoid further mutations which give rise to new variants until such time as a sufficient portion of the population of Montgomery County is inoculated against COVID-19.
7. To date only 48.4% of the population of Montgomery County have received at least one dose of the vaccination against COVID-19.

8. COVID-19 in Montgomery County has caused disease in Montgomery County which thus far has claimed the lives of 1460 Montgomery County residents.
9. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions and further mutations.
10. To reduce the threat to human health caused by transmission of COVID-19 and to protect and save lives, it is necessary and reasonable that individuals in Montgomery County continue to engage in social distancing, use of face coverings, and refrain from congregating in large groups.
11. It continues to be necessary to control and direct the occupancy and use of buildings and premises, as well as places of amusement and assembly within Montgomery County.
12. Due to Montgomery County's large population and the amount of interstate travel between the District of Columbia and the Commonwealth of Virginia, disease can spread faster.
13. On March 9, Director of the National Institute of Allergy & Infectious Diseases at the NIH and Chief Medical Advisor for COVID-19 to President Biden, Dr. Anthony Fauci, told the Montgomery County Council "Now is the time to keep our foot on the accelerator with regard to adherence to public health measures, such as masking, physical distancing, and other measures that we know work to protect people from the SARS CoV-2 virus, while we are ramping up efforts to vaccinate as many people as we can as quickly as possible."
14. On March 1, Centers for Disease Control and Prevention ("CDC") Director Rochelle Walensky said, "Please hear me clearly. At this level of cases with variants spreading, we stand to completely lose the hard-earned ground we have gained. These variants are a very real threat to our people and to our progress. Now is not the time to relax the critical safeguards that we know could stop the spread of COVID-19 in our communities, not when we are so close."
15. Both County Health Officer, Dr. Travis Gayles, and County Director of Emergency Management, Dr. Earl Stoddard, recommended a progressive, staged relaxation of restrictions so officials can disaggregate the data and assess the impact of the relaxation of the restrictions in other jurisdictions before deciding what is safest for the residents of Montgomery County.
16. Pursuant to Md. Code Ann. Local Government §10-328(b) a county may provide for the prevention of contagious diseases in the County.
17. A local Board of Health may, pursuant to Md. Code Ann. Health Gen. §3-202(d), adopt and enforce rules and regulations on any cause of disease in the County.

18. Pursuant to Montgomery County Code 2-65, the County Council is and may act as the County Board of Health.
19. The Council, sitting as the Board of Health, adopted a Board of Health Regulation in Resolution No. 19-760 on March 12, 2021. The Council adopted the First Amended Regulation on March 19, 2021 in Resolution No. 19-768. The Council adopted the Second Amended Regulation on March 26, 2021 in Resolution No. 19-778. The Council Adopted the Third Amended Board of Health Regulation on April 13, 2021 in Resolution No. 19-790. The Council Adopted the Fourth Amended Board of Health Regulation on April 20, 2021 in Resolution No. 19-794. This Board of Health Regulation would amend Resolution No. 19-794.
20. Rule 4(d) of the Council's Rules of Procedure provide that before the Board of Health adopts a regulation, the Council President must advertise a public hearing in a newspaper circulated throughout the County at least 15 days before the hearing and notify the governing body or chief executive officer of each municipality in the County at least 15 days before the hearing. Rule 4(d) allows the President to waive these notice provisions if a public health emergency requires immediate action. The Council President has waived these notice requirements because of the public health emergency caused by COVID-19.
21. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing that this public health regulation is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, finds that this is an emergency and approves the following regulation amending the regulation adopted by Resolution No. 19-794:

1 **1. Definitions.**

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

- 32 outdoor day camps, amusement parks, tour boats, miniature golf establishments,
 33 and go-kart tracks.
- 34 j. “*Personal Service Establishments*” means hair salons, barbershops, and
 35 establishments that provide tanning, tattoo, waxing, threading, electrolysis,
 36 cryotherapy, facial and other skin services, massage, and nail technician services.
- 37 k. “*Population*” population means the number of individuals, regardless of age, who
 38 reside in Montgomery County, Maryland as determined by the U.S. Census Bureau.
- 39 l. “*Public Transportation*” means shared-ride surface transportation services that are
 40 open to the general public, including without limitation, taxi services, ride-sharing
 41 services, car services, and transit services operating within Montgomery County.
 42 Examples of Public Transportation include, but are not limited, to Ride-On bus
 43 service, WMATA bus and train service, MARC train service, and Mobility and
 44 Paratransit services.
- 45 m. “*Religious Facilities*” means Churches, synagogues, mosques, temples, and other
 46 similar religious facilities of any faith.
- 47 n. “*Social gatherings*” means a gathering of persons from more than one household.
 48 It includes parties, receptions, parades, festivals, fundraisers, community,
 49 recreational, leisure, and non-professional sports gatherings and events and all
 50 events held in Convention and Banquet Facilities.

51 2. Face Coverings.

- 52 a. *Requirement to Wear Face Coverings.*
- 53 i. All persons in the County [over the age of two (2) years old] must wear face
 54 coverings:
- 55 1. pursuant to [State Executive Order [21-03-09-01](#) paragraphs IV.a.i.1
 56 – IV.a.ii] CDC or Maryland Department of Health (“MDH”) guidance, whichever is stricter;
 - 57 2. at all times in a foodservice establishment unless actively engaged
 58 in eating or drinking; and
 - 59 3. when actively engaged in sports – except as recommended by the
 60 [American Academy of Pediatrics](#), including guidance that allows
 61 the removal of face coverings during vigorous outdoor exercise in
 62 high heat and high humidity conditions.
- 63

- 64 b. *Exceptions.* Paragraph 2.a. does not require persons to wear Face Coverings:
65 i. Pursuant to State Executive Order 21-03-09-01 paragraph IV.b.

66 **3. General Operating Requirements.**

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

80 **4. Letters of Approval.**

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

90 **5. Gatherings.**

- 91 a. Unless expressly stated in another paragraph of this Order:
92 i. Outdoor gatherings of more than 50 people are prohibited.
93 ii. Indoor gatherings of more than 25 people are prohibited.
94 iii. The size of the location and venue of any gathering must accommodate
95 applicable social distancing for the number of attendees.

96 iv. If more than one household is present at a gathering each individual present
97 at the gathering must be counted for purposes of determining compliance.

98 **6. Businesses that May Open.**

99 a. *Foodservice Establishments.*

100 i. Total number of persons permitted in the indoor dining portion of the
101 foodservice establishment shall not exceed 50% of the maximum
102 occupancy.

103 ii. Outdoor dining at a foodservice establishment must follow [MDH Order No](#)
104 [2021-03-09-01](#) paragraph 2.A.

105 iii. May resume buffet service pursuant to [MDH Order No 2021-03-09-01](#).

106 iv. Must require all customers to wear Face Coverings unless actively engaged
107 in the act of eating or drinking (e.g. while seated at the table and talking but
108 not eating or drinking).

109 v. Must maintain a daily record of the date, time, name and contact
110 information for at least one person for each dining party and maintain the
111 daily record for at least 30 days, to assist with contact tracing: date;

112 vi. Must post signage at each outdoor dining entrance advising customers and
113 visitors that:

114 1. they must comply with the Face Covering requirements at all times
115 when they are not actively eating or drinking;

116 2. they must maintain social distancing of at least 6 feet when waiting
117 to be seated; and

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

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

123 c. *Malls.*

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

- 128 ii. Food courts located inside indoor malls shall follow paragraph 6.a.
- 129 iii. Congregating in any indoor area outside of retail stores is prohibited.
- 130 iv. Malls shall remove tables, chairs, benches, or any other items which could
- 131 encourage congregating from indoor areas outside of retail stores.

132 d. *Religious Facilities.*

- 133 i. The total number of persons permitted in a religious facility may not exceed
- 134 50% of the facility’s maximum occupancy.
- 135 ii. Occupancy numbers shall include faith leaders, volunteers, and
- 136 congregants.
- 137 iii. Must follow spacing, screening, cleaning, and music guidelines as stated in
- 138 the County’s [Religious Facilities Reopening](#) page.

139 e. *Sports.*

- 140 i. Except as provided in paragraph 6(e)(vii), all organized youth sports may
- 141 be played either indoors or outdoors only after a COVID Protocol Plan is
- 142 approved by the County Health Officer or the Officer’s designee. The Plan
- 143 must align with guidelines by the CDC, Maryland State Department of
- 144 Education (MSDE), and Montgomery County, and include a plan for;
 - 145 1. contact tracing with an attendance tracking sheet that must be
 - 146 completed for all activities conducted;
 - 147 2. requiring that face coverings be worn per guidelines from the
 - 148 American Academy of Pediatrics;
 - 149 3. social distancing with at least 6 feet between all participants to the
 - 150 extent possible; and
 - 151 4. requiring the use of a student attestation form or COVID-19
 - 152 Athlete/Coach Monitoring Form at all activities conducted.

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

- 155 ii. A Letter of Approval must be obtained before any tournaments,
- 156 championships, or events are held in Montgomery County that are expected
- 157 to exceed guidelines.
- 158 iii. All organized sports played in the County must comply with the gathering
- 159 guidelines described in paragraph 6(e)(i), including limiting the

- 160 participating athletes to those listed on the official roster as determined
161 through the Maryland Public Secondary Schools Athletic Association
162 (MPSSAA) or the organization's governing body or league, coaches, and
163 up to 12 additional participants acting in an official game capacity.
- 164 iv. Sports played outside of an organized league must follow social gathering
165 guidelines and all persons must comply with the State mandate to use a face
166 covering whenever social distancing is not an option. The total number of
167 people present for outdoor sports played outside of an organized league is
168 limited to 50 and the total number of people present for indoor sports played
169 outside of an organized league is limited to 25.
- 170 v. Play and games with teams from outside of Maryland, Virginia, or the
171 District of Columbia is prohibited.
- 172 vi. Sports may not open to the general public. On or after April 2, 2021, 2
173 spectators per participating athlete up to a maximum of 50 spectators may
174 be permitted at a sports event if:
- 175 1. the site has a barrier to delineate the area for spectators from the area
176 for the participating athletes and coaches;
 - 177 2. the area for the spectators is large enough to provide for social
178 distancing between all spectators from different households; and
 - 179 3. all spectators wear face coverings and practice social distancing of
180 at least 6 feet.
- 181 The Health Officer or the Officer's designee may approve a COVID
182 Protocol Plan that includes more than 50 spectators for an event if the
183 Officer finds that the Plan provides for reasonable safety for all participants.
- 184 vii. An organized youth sports league that was approved to operate under a prior
185 Board of Health Regulation and was not classified as a high risk sport does
186 not need a new COVID Protocol Plan approved for any event that complies
187 with the gathering limits and restrictions of the prior approval.

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

- 189 a. *Fitness Centers.*

- 190 i. Fitness Centers that provide sport-specific training for high-risk sports as
191 defined in [Maryland Sports Commission Return to Play Report](#) must follow
192 the restrictions in paragraph 6.e above.
- 193 b. *Bowling Alleys.*
- 194 i. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be
195 cleaned between each person(s) or group's use with CDC and EPA
196 approved cleaners; and
- 197 ii. any foodservice establishment located within the bowling alley must follow
198 paragraph 6 of this Order.
- 199 c. *Escape Rooms.*
- 200 i. Only private games of a maximum of 6 people all permitted.
- 201 ii. All games are by appointment only and must be staggered so as to prevent
202 patrons from interacting with others outside of their group.
- 203 iii. Before and after each game, all items in game rooms and items provided to
204 patrons (including but not limited to lock, props, and any touchable
205 surfaces) must be thoroughly cleaned using CDC and EPA approved
206 disinfectants.
- 207 d. *Museums and Art Galleries.*
- 208 i. Exhibits requiring contact (for example "please touch" exhibits or other
209 interactive displays) must remain closed.
- 210 e. *Personal Services.*
- 211 i. Staff are required to wear gloves, and any other Personal Protective
212 Equipment as appropriate to their workplace and provided service.
- 213 f. *Pools.*
- 214 i. Must strictly comply with any guidance issued by DHHS.
- 215 g. *Retail Establishments.*
- 216 i. Employees must use any additional Personal Protective Equipment as
217 appropriate to their workplace.
- 218 h. *Recreation Centers.*
- 219 **8. Other Businesses, Organizations, Establishments, and Facilities that may open at**
220 **25% capacity provided they do not sell or permit food for consumption at the facility.**

- 221 a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-
 222 go-rounds and roller coasters.
- 223 b. *Bingo halls.*
- 224 c. *Go-kart tracks.*
- 225 d. *Roller skating rinks.*
- 226 e. *Social Clubs.*
- 227 f. *Theaters.* This Order controls the occupancy and use of theatres in Montgomery
 228 County at which live performances occur or motion pictures are shown
 229 (“Theaters”).
- 230 g. *Trampoline Parks.*
- 231 h. Any other establishment not listed above that is subject to the admission and
 232 amusement tax under Title 4 of the Tax-General Article of the Maryland Code.

233 9. Camps.

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

- 253 b. Hand hygiene;
- 254 c. Cough and sneeze hygiene;
- 255 d. Proper use, removal, and washing of cloth face coverings;
- 256 e. Providing policies and education on COVID-19 symptoms
- 257 and response;
- 258 f. Avoiding the use of items that are not easily cleaned and
- 259 disinfected;
- 260 g. Ensuring adequate supplies of tissues, hand soap, alcohol-
- 261 based hand sanitizer, EPA approved cleaning products for
- 262 COVID-19 disinfection suited for the facility;
- 263 h. Effective cleaning and disinfection of surfaces; and
- 264 i. regularly reviewing and incorporating into the Plan any CDC
- 265 guidance for youth and summer camps that does not conflict
- 266 with this Regulation.
- 267 b. *Camp Food Service Operations.*
- 268 i. Camp food service operations must ensure there are no shared items such
- 269 as serving utensils or condiment containers.
- 270 ii. Must ensure physical distancing for campers waiting for food service and
- 271 while dining.
- 272 c. *Youth Camp Programming and Training.*
- 273 i. Field Trips and Camp Transportation.
- 274 1. All transportation provided by camps should follow social
- 275 distancing guidelines for occupants and should prevent mixing of
- 276 camp groups.
- 277 2. Staff and campers must use face coverings during transportation and
- 278 when in public areas.
- 279 3. Clean and disinfect vehicles after each use.
- 280 ii. Sports activities.
- 281 1. Limited to groups of 25 participants indoors and groups of 50
- 282 participants outdoors. Participants include all campers, staff, and
- 283 any volunteers. Participants must not mix with participants from
- 284 another group.

- 285 2. Close physical contact during sports activities should be avoided
286 whenever possible and masks must be worn when actively engaged
287 in sports, except as recommended by the [American Academy of](#)
288 [Pediatrics](#).
- 289 3. Equipment must be cleaned and disinfected after each use.
- 290 d. *Residential Camps.* All residential youth camps must implement the following
291 measures in addition to the measures described above:
- 292 i. Each group of campers/staff stays with their sleeping group, do not mix
293 campers or staff among groups for the duration of the session.
- 294 1. Maximum capacity for each sleeping area is groups of 25 adults and
295 campers.
- 296 2. For bunk beds, if both upper and lower beds are occupied, sleep with
297 the top bunk individual's head above the lower bunk individual's
298 feet.
- 299 3. Minimum of 6 feet between each occupied bunk or bed, provide
300 maximum distance between each individual's head.
- 301 4. Complete COVID-19 temperature and symptom screening for staff
302 and campers every morning.
- 303 ii. Residential camps with a COVID-19 positive or probable case will send all
304 campers/staff in the group to their homes or quarantine in place with
305 additional requirements based on consultation with the local health
306 department.
- 307 iii. Clean and disinfect high touch surfaces in bathroom facilities and sleeping
308 quarters daily.
- 309 **10. Graduations.** May occur if the following requirements are met:
- 310 a. *Generally.*
- 311 i. Persons/groups of guests not of the same household must maintain a
312 minimum of 6 feet of social distance at all times, including during any
313 graduate procession.
- 314 ii. All persons present must wear face coverings consistent with paragraph 2
315 of this Regulation.

- 316 iii. All persons present must be included in the numerical attendance totals.
317 This includes students, faculty, staff, workers, vendors, guests, and
318 speakers.
- 319 iv. Any person with a fever or who is exhibiting symptoms of COVID-19, must
320 not attend a graduation ceremony.
- 321 v. A record of all individuals who attended the graduation must be maintained
322 for at least 30 days to assist with contact tracing. Information collected must
323 include name, date, phone number and email (if available). This
324 information must be provided within 24 hours if requested by MCDHHS if
325 a case of COVID-19 associated with the graduation occurs. Seating charts
326 must also be provided if used.
- 327 vi. The school must post the following signage:
- 328 1. At any entrance(s) stating that nobody with a fever or symptoms of
329 COVID-19 is permitted to enter the venue and that individuals must
330 wear a mask or face covering.
- 331 2. Throughout the venue reinforcing social distancing, face covering
332 usage, and hand hygiene policies.
- 333 3. At areas of entry and egress to allow the one-way flow of attendees.
- 334 4. On floors and sidewalks both inside and outside the venue to provide
335 physical guides to ensure individuals remain at least 6 feet apart in
336 queuing areas.
- 337 5. Marking seating arrangements to delineate physically distanced
338 seating.
- 339 vii. Must prohibit congregating or gathering in common areas both inside and
340 outside of the venue before or after the graduation ceremony.
- 341 viii. Prohibit group or staged photography.
- 342 b. *Ceremony.*
- 343 i. Ceremonies must not exceed 2 hours, but the venue may be open for an hour
344 in advance and after the ceremony to prevent crowding at points of ingress
345 and egress.
- 346 ii. No more than 10 persons must be permitted on the stage at any given time.
347 Persons on the stage must be spaced at least 6 feet apart.

- 348 iii. Only single performers/speakers must be allowed (e.g., no choirs or bands)
349 during the ceremony.
- 350 1. A minimum of 12 feet must be maintained from the audience if
351 performers/speakers are masked.
- 352 2. A minimum of 18 feet must be maintained from the audience if
353 performers/speakers are unmasked.
- 354 3. Use of shared objects during the graduation should be minimized
355 (e.g. microphones).
- 356 4. Diplomas must be distributed with no handshake or physical
357 contact.
- 358 5. No food or beverage service is permitted during ceremonies
359 (including concession stands).
- 360 6. If permitted by the venue, guests may bring their own
361 beverages/snacks which may only be consumed while seated.
- 362 7. All guests must be seated and remain in their seats throughout the
363 ceremony.
- 364 8. Any items handed out to guests must be single use or cleaned and
365 disinfected between each guest use (e.g., assisted audio devices).
- 366 c. *Communication and Response.* Schools must develop a comprehensive plan to
367 communicate measures in place to prevent the spread of COVID-19 with all
368 attendees of the graduation. The plan must:
- 369 i. Identify and address potential language, cultural, and disability barriers in
370 the communication plan.
- 371 ii. Communicate COVID-19 policies to staff (including vendors), guests and
372 students, (e.g., on school/graduation website, social media sites, prominent
373 signage at entrances and throughout the venue, message screens and public
374 announcements before and during the graduation).
- 375 iii. If an attendee becomes sick while at the graduation ceremony, the school
376 must have a protocol in place for that individual to immediately leave the
377 venue. If they are unable to immediately leave (e.g., they need to wait for
378 a ride), there should be a process that allows them to isolate until they are
379 able to leave. People who are sick should go home or to a healthcare

- 380 facility, depending on the severity of their symptoms. Public transportation
381 should not be used.
- 382 iv. Must identify a point of contact that staff or an attendee can notify if they
383 test positive for COVID-19 within the 2 weeks from the date of the
384 graduation and choose to disclose this information.
- 385 v. In the event of a positive test result, the COVID-19 Point of Contact must
386 notify the Montgomery County Department of Health and Human Services
387 (240-777-1755) within one business day of the notice and provide them
388 with the name and contact information of the positive case.
- 389 vi. Put systems in place to encourage self-reporting.
- 390 d. *Indoor Graduations.*
- 391 i. Total number of persons permitted at an indoor graduation is limited to 25%
392 of the maximum occupancy of the space or 250 people, whichever number
393 is smaller (e.g. if the maximum occupancy of the space is 800, only 250
394 persons must be permitted).
- 395 ii. Must obtain a Letter of Approval prior to the graduation by submitting a
396 COVID-19 Graduation Plan which explains how all of the requirements in
397 paragraphs 10(a) – (c) will be implemented. Any requests for increased
398 occupancy should be made at this time.
- 399 e. *Outdoor Graduations.*
- 400 i. Total number of persons permitted at an outdoor graduation at any one time
401 must not exceed 50% of the Outdoor Venue's Maximum Occupancy. If an
402 Outdoor Venue does not have a formal Certificate of Occupancy, 40 square
403 feet per person must be used to calculate the occupancy limit.
- 404 ii. Schools planning outdoor graduations should put careful thought and
405 planning into a back-up plan in case of inclement weather. Back-up venues
406 must meet all the requirements outlined in this guidance.
- 407 f. *Recommendations.* Although not required, the following are strongly
408 recommended:
- 409 i. Holding multiple smaller graduation ceremonies as necessary, so that all
410 graduating students can be accommodated while minimizing crowd sizes.

- 411 ii. Holding a virtual graduation or providing a virtual option for persons who
412 either do not wish to or are unable to attend.
- 413 iii. Use of pre-assigned/reserved seating is recommended.
- 414 iv. Attendance by persons traveling from outside of Maryland, Virginia, and
415 the District of Columbia is strongly discouraged.

416 **11. Impact of Increased Vaccination.**

- 417 a. Upon the Board of Health's receipt of notification by the Health Officer, or the
418 Health Officer's designee, that 50% of the population of Montgomery County has
419 received at least one dose of a vaccination against COVID-19, the following must
420 automatically occur provided continued face covering usage and social distancing
421 are strictly followed:
- 422 i. *Gathering* limits, as stated in paragraph 5 of this Regulation will increase to
423 50 people indoors and 100 people outdoors.
- 424 ii. *Businesses, Organizations, Establishments, and Facilities* named in
425 paragraph 8 may increase to 50% maximum capacity provided they do not
426 sell or permit the consumption of food or drink at the facility.
- 427 iii. *Camps*, including Youth Camp Programming and Training and Residential
428 Camps, may increase the number of participants to 50 indoors and 100
429 outdoors.
- 430 iv. *Escape rooms* may allow 10 people per game, consistent with the table
431 limitations present at restaurants.
- 432 v. *Museums and Art Galleries* may reopen please touch exhibits or interactive
433 displays.
- 434 vi. *Malls* may fully reopen pedestrian concourses and may return tables, chairs,
435 benches and other items to indoor areas outside of retail stores.
- 436 vii. *Sports*:
- 437 1. total number of people present for sports played indoors may
438 increase to 50 people indoors and 100 people outdoors; and
- 439 2. total number of spectators present may increase to 50 spectators
440 indoors and 100 spectators outdoors.
- 441 b. Upon the Board of Health's receipt of notification by the Health Officer, or the
442 Health Officer's designee, that 60% of the population has received at least one dose

- 443 of a vaccination against COVID-19, the following must automatically occur
444 provided face covering usage and social distancing are strictly followed:
- 445 i. *Gathering* limits, as stated in paragraph 5 of this Regulation will increase to
446 250 people indoors with no limitation outdoors except as would be required
447 to comply with social distancing.
 - 448 ii. *Businesses, Organizations, Establishments, and Facilities* named in
449 paragraphs 7 and 8 may increase to 75% maximum capacity and may sell
450 and permit the consumption of food and drink at the facility provided:
 - 451 1. Food and drink is only consumed while seated in a socially distant
452 manner; and
 - 453 2. Food and drink are not consumed while standing or walking.
 - 454 iii. *Camps* may:
 - 455 1. Increase the number of participants pursuant to the gathering limits
456 stated in paragraph 11(b)(i); and
 - 457 2. Permit campers from outside of Maryland, the District of Columbia,
458 or Virginia.
 - 459 iv. *Convention and Banquet Facilities* are limited to 50% of the facility's
460 maximum occupancy.
 - 461 v. *Cigar Bars, Hookah Bars, Vape Shops* may permit smoking outdoors.
 - 462 vi. *Foodservice establishments* may increase indoor capacity to 75% of their
463 maximum capacity.
 - 464 vii. *Religious facilities* may increase capacity to 75% of the facility's maximum
465 capacity.
 - 466 viii. *Sports* may:
 - 467 1. Increase the number of participants and spectators pursuant with the
468 gathering limits stated in paragraph 11(b)(i); and
 - 469 2. Engage in play with teams from outside of Maryland, the District of
470 Columbia, and Virginia.
 - 471 c. Upon the Board of Health's receipt of notification by the Health Officer, or the
472 Health Officer's designee, that 50% of the population has been fully vaccinated
473 with all required doses of a COVID-19 vaccine, the following must automatically

474 occur provided face covering usage and social distancing continue to be strictly
475 followed:

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

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

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

487 a. Facilitating remote working (a/k/a/ telework) by other staff;

488 b. Maintaining essential property;

489 c. Preventing loss of, or damage to property, including without limitation, preventing
490 spoilage of perishable inventory;

491 d. Performing essential administrative functions, including without limitation, picking
492 up mail and processing payroll; and

493 e. Caring for live animals.

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

497 **14. Applicability.** This regulation applies Countywide.

498 **15. Severability.** If the application of this regulation or any part of it to any facts or
499 circumstances is held invalid, the rest of the regulation and its application to all other facts
500 and circumstances is intended to remain in effect.

501 **16. Effective Date.** This regulation takes effect on April 27, 2021 at 5 p.m.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council