



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

AGENDA ITEMS 4D, 4.5 & 4E  
November 10, 2020  
**Introduction/  
Public Hearing/Action**

**SUBJECT**

Resolution to approve Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020  
Resolution to adopt a Board of Health Regulation concerning Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020  
Lead Sponsor: County Council

**EXPECTED ATTENDEES**

Dr. Travis Gayles, County Health Officer  
Dr. Earl Stoddard, Director of Emergency Management & Homeland Security  
Silvia Kinch, County Attorney’s Office

**COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- Whether to modify the restrictions to limit the spread of COVID-19 due to the numbers of infections in the County.
- Executive Order No. 122-20 AM would amend certain limitations and clarify some existing provisions.

**DESCRIPTION/ISSUE**

The Council would consider approving Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020.  
The Council, sitting as the Board of Health would approve Montgomery County Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020, as a Board of Health Regulation if the Council approves it.

**SUMMARY OF KEY DISCUSSION POINTS**

- None

**This report contains:**

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**MEMORANDUM**

November 6, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Resolution to adopt a Board of Health Regulation concerning Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020.

PURPOSE: Introduction/Public Hearing/Action – Council vote required

On Thursday, November 5, the Council was scheduled to deliberate on a Resolution to approve Executive Order No. 122-20, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020 sitting as the County Council. If the Council approved the Executive Order, the Council, sitting as the Board of Health, would have introduced a Resolution to adopt the Executive Order as a Board of Health Regulation.<sup>1</sup> The Council held a public hearing on November 5 with 9 speakers and discussed the proposed Executive Order with Executive Branch representatives. The Council deferred action on the Executive Order and the Board of Health Regulation sponsored by the County Council until November 10. The Executive submitted Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020 for Council approval on November 6, 2020. A public hearing is tentatively scheduled for November 10 on Executive Order 122-20 AM; Council action is tentatively scheduled to follow the public hearing.

**Background**

The Council has adopted several Resolutions approving Executive Orders related to the COVID health emergency:

- On May 15, 2020, the Council adopted Resolution No. 19-456 approving Executive Order No. 067-20, COVID-19 Local Order. EO 067-20 continued the stay at home order of the Governor for the County until certain criteria in slowing the spread of the COVID-19 virus are met.
- The County's Local Health Officer, Dr. Travis Gayles, determined that certain criteria were met that would permit a Phase 1 reopening. County Executive Elrich signed EO 070-20, COVID-19 Local Order – Phase 1 permitting certain businesses and activities to operate again in the County as of June 1, 2020. On May 29, 2020, the Council adopted Resolution No.

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<sup>1</sup>#COVID19PublicHealthOrder

19-485 approving Executive Order 070-20. On the same day, the Council, sitting as the Board of Health, also adopted Resolution No. 19-484 adopting the Executive Order as a Board of Health Regulation.

- The Executive, after consulting with Dr. Gayles, determined that enough progress was made to begin Phase 2 on Friday, June 19. Executive Order 082-20, COVID-19 Local Order – Phase 2 lifted part of the stay at home order and moved the County into Phase 2. On June 16, 2020, the Council adopted Resolution No. 19-496 approving Executive Order 082-20. On the same day, the Council, sitting as the Board of Health, also adopted Resolution No. 19-497 adopting the Executive Order as a Board of Health Regulation.
- On August 4, 2020, the Council adopted Resolution No. 19-579 approving Executive Order 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council, sitting as the Board of Health also adopted Resolution No. 19-578 adopting the Executive Order as a Board of Health Regulation on August 4.
- On August 24, 2020, the Council adopted Resolution No. 19-583 approving Executive Order 098-20, COVID-19 – Local Order Amending and Restating Order dated August 5, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-584 approving the Executive Order as a Board of Health Regulation.
- On September 22, 2020, the Council adopted Resolution No. 19-598 approving Executive Order 114-20, COVID-19 – Local Order Amending and Restating Order dated August 24, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-599 approving the Executive Order as a Board of Health Regulation.
- On October 1, 2020, the Council adopted Resolution No. 19-617 approving Executive Order 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020. The Council, sitting as the Board of Health, also adopted Resolution No. 19-618 approving the Executive Order as a Board of Health Regulation.

On October 16, 2020, Governor Hogan issued Executive Order 20-10-16-02 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-10-16-02, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID- 19.

On November 3, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.

On November 3, 2020, the Executive issued Executive Order No. 122-20, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020 which amends the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19. After the November 5 public hearing and the Council worksession, the Executive submitted Executive Order No. 122-20 AM, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020 for Council approval on November 10, 2020.

## Executive Order 122-20 AM

Executive Order 122-20 is based on the Governor's Executive Order 20-10-16-02 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19. If approved by the Council, Executive Order 122-20 AM would make the following changes:

### Childcare.

- Must continue to follow the phase 2 childcare capacity limits that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education's June 10, 2020 Child Care Operating Procedures. All applicable Code of Maryland Regulations regarding staff-child ratio must be followed. See the June 10, 2020 MDE letter at ©34.

### Escape rooms.

- Permitted to open with only 6 people per room/game. See 10 ¶ 7.b

### Foodservice Establishments.

- Amended language to clarify that, absent a Late Night Alcohol Sales Permit, foodservice establishments may not sell or provide alcohol to anyone after 10 pm and that all alcohol must be collected from patrons by 10 p.m. See 6 ¶¶ 6.e.i.(4), (5). This is being done in response to complaints that establishments will sell a patron large quantities of alcohol right before 10 p.m. which are then consumed on-site well after 10 p.m.
- Added language requiring collection of information to assist with contact tracing from at least one person per party for dine-in customers. See 6 ¶ 6.e.i(6)
- Clarified that the suspension of the sale of alcohol at 10 pm does not apply to sale for off-site premises.
- Clarified that food and beverages may be sold for off-site consumption after 10 pm.
- Late Night Alcohol Sales Program
  - Opens the Program to establishments who have not been cited or closed within the last 60 days to apply. See 6 ¶ 6.e.ii.
  - Clarified automatic suspension language. See 7 ¶ 6.e.ii.(4).
  - Amended number of average days that trigger the suspension of the program from 3-days to 7-days. See 7 ¶ 6.e.ii.(4)b.

### General housekeeping.

- Updates to State EO numbers, County EO numbers, dates, references to other paragraphs within the Order. See draft EO at 1, 2 ¶ 1, 4 ¶ 3b, 5 ¶ 6.d.v, and 12 ¶¶ 11-13.

### Letter of Approval Section.

- New section provides deadlines by which to submit request for Letter of Approval and penalties for holding an event without a Letter of Approval. See 4 ¶ 4.

### Playgrounds.

- Playgrounds are exempted from the cleaning requirements as stated in the general operating requirements section. See 11 ¶ 7.g.vii(1).

### Sports.

- Removed flag football as a high-risk sport. See 9 ¶ 6.l.i.(1)

- Added that gathering size can exceed 25 people solely to accommodate the presence of 1 parent or guardian per child participant. *See* draft 10 ¶¶ 6.l.viii(1), 6.l.ix(1)
- Clarified that for outdoor sports only parents guardians and immediate family are permitted to spectate *See* 10 ¶ 6.l.xi.(1).
- Outdoor ice rinks would be permitted to open with size restrictions and after submitting a request for a Letter of Approval before reopening.

Gatherings

- Prohibits gatherings of more than 25 people at all locations and venues.
- Social, community, recreational, and leisure gatherings may resume provided the following physical precautions are met and followed:
  - limited to one person or household per 200 sq. ft. or a maximum of 25 people, whichever number is lower; and
  - the size of the location and venue must accommodate applicable social distancing for the number of attendees.

Reduced Occupancy to 25% in:

- Bowling
- Fitness Centers
- Foodservice Establishments (Indoors)
- Museums and Art Galleries
- Personal Services
- Retail Establishments
- Religious Facilities

Proposed effective date would be 11/10 at 5 pm.

A copy of proposed Executive Order 122-20 AM is at ©8-20.

**Childcare.**

The new childcare provision is a continuation of the County’s current limits on childcare capacity under the State’s Phase 2 Order. Unfortunately, Council staff sent out a news release on Monday based on a draft Executive Order sent to the Council by the Executive Branch that indicated a more restrictive limit on childcare capacity. After receiving questions from Councilmembers and members of the public, the Executive Branch agreed that the draft Executive Order sent to Council staff this week misrepresented their intent and the final Executive Order has corrected this error.

Although Governor Hogan moved the State to Phase 3, the Governor also permitted each County to keep more restrictive measures in place. The County, along with several other local jurisdictions, has remained in Phase 2. Executive Order 122-20 does not change that. MDE guidelines described in a June 10, 2020 letter (see ©34) permits a maximum of 15 individuals per classroom with a staff-child ratio of no more than 1:14 for three and four-year-olds. Executive Order 122-20 AM would keep these limits in place. However, MDE issued an October 9 letter (see ©35) requiring all counties to move back to a 1:10 staff-child ratio for three and four-year-olds as of November 30, 2020 even if the County continues with Phase 2 capacity limits. This could become a problem for County childcare providers under Phase 2 who would have to increase staff or reduce the

number of children served on November 30. The County Executive sent a letter to MDE requesting a waiver of the 1:10 ratio for the County while the County remains in Phase 2 (©23-24).

Both Dr. Gayles and Dr. Stoddard attended the November 5 session and answered questions about all the new provisions and explained their reasoning for making these changes. We expect both Dr. Gayles and Dr. Stoddard to attend the November 10 meeting.

### **November 5 Public Hearing**

There were 9 speakers at the hearing. John DeMarchi, Melissa Reynolds Williamson, Ashley Harvey, James Worley, Shaun Rose, and Tracy Rana all expressed concern about the childcare provision. Although they understood that EO 122-20 was going to continue the same Phase 2 capacity and staff/child ratio, the recent order from the Maryland Department of Education requiring all counties to go back to the standard staff/child ratio on November 30 would cause great harm to childcare providers and parents if the County does not move to Phase 3 capacity limits. Howard Grief, representing the Greater Olney Civic Association and the Lake Hallowell HOA, supported the change in EO 122-20 that would permit the opening of a playground without hourly cleaning. Stacy Sloan, the owner of the White Oak Bowling Lanes, opposed the provision that would reduce their capacity limit from 50 persons to 25 persons. Finally, Matt Libber, representing the Maryland SoccerPlex, opposed the reduction in the number of people permitted for an outdoor sporting event from 50 to 25. The written testimony submitted to the Council can be viewed at: <https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20201105/index.html>.

### **November 5 Council Worksession**

The Council held a worksession with Dr. Gayles and Dr. Stoddard immediately after the public hearing and discussed the reasons for the changes. In response to the worksession, the Executive submitted Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020 for Council approval on November 10, 2020.

### **Summary of Changes Made Since November 5 Meeting**

EO 122-20 AM made the following changes from the original EO 122-20:

#### Foodservice Establishments

- p.6, paragraph 6.e.i.(4) was amended to make it clear that restaurants must stop selling or providing alcoholic beverages for “on-site” consumption after 10 p.m.
- p. 6 paragraph 6.e.i.(5) was amended to clarify that food sales, including drive through or carry out can continue after 10 p.m.
- p. 6, paragraph 6.e.i.(6) was amended to make clear that contact tracing information must be collected from 1 person in every dine-in party and maintained for at least 30 days, to assist with contact tracing

#### Playgrounds

- page 11, paragraph 7.g.vii.(1) excludes playgrounds from the cleaning requirements (we are no longer requiring notice to be posted).

#### Effective date:

- p. 13, paragraph 16 moved to 11/10 at 5 p.m.

## **Board of Health Regulation**

The Board of Health Regulation would approve and adopt the terms of Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020, which was signed by County Executive Elrich on November 6, 2020, as a Board of Health Regulation applicable throughout the County, effective November 10, 2020 at 5 pm.

This packet contains:

	<u>Circle #</u>
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Resolution No.: \_\_\_\_\_  
Introduced: November 10, 2020  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY MARYLAND**

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Lead Sponsor: County Council

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**SUBJECT:** Approval of Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020

**Background**

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

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

restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. The Council adopted Resolution No. 19-598 approving Executive Order 114-20 on September 22, 2020.

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

### **Action**

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

The Council declares that acting on this Resolution is an emergency and approves Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020. This Local Order takes effect on, November 10, 2020 at 5:00 p.m.

Resolution No.: \_\_\_\_\_  
Introduced: November 10, 2020  
Adopted: \_\_\_\_\_

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

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Lead Sponsor: County Council

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**Subject:** Board of Health Regulation adopting Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020.

Background

1. County Code §2-65, as amended effective August 10, 2000, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202(d) authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. Governor Lawrence J. Hogan proclaimed a state of emergency and catastrophic health emergency on March 5, 2020, and renewed it on March 17, 2020, April 10, 2020, May 6, 2020, June 3, 2020, July 1, 2020, July 30, 2020, August 10, 2020, September 8, 2020, September 18, 2020, and October 6, 2020, and October 29, 2020, to control and prevent the spread of 2019 Novel Coronavirus (“SARS-CoV-2”) and the disease that it causes - Coronavirus Disease 2019 (“COVID-19”).
4. The effects of COVID-19 require that local health officials be vigilant in advising the residents of measures they can take to protect health, safety, and welfare.
5. The currently known and available scientific evidence and best practices support continued limitations on large gatherings, increased use of face coverings, and continued social distancing to prevent exposures and transmissions, and reduce the threat to especially vulnerable members of the population.
6. The COVID-19 virus is nearly uncontrolled in many locations outside of Maryland. A strong possibility exists that cases will rise back to levels that previously necessitated stay at home orders.
7. On May 13, 2020 Governor Hogan issued State Executive Order 20-05-13-01 that continued to restrict gatherings of more than ten people for social, community, recreational, leisure, and sporting activities and events, requires the continued

closure of certain non-essential businesses, and allows for the limited re-opening of certain businesses and activities under certain conditions. The Governor authorized Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by the State Executive Order if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.

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

COVID-19 and issued Executive Order No. 087-20, COVID-19 Local Order – Amending and Restating Order dated June 19, 2020. The Council approved Executive Order No. 087-20 on August 4, 2020 in Resolution No. 19-579.

16. On August 21, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-08-03-01 in order to prevent the spread of COVID-19.
17. On August 21, 2020, the Executive issued Executive Order No. 098-20, COVID-19 Local Order – Amending and Restating Order dated August 5, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. The Council approved Executive Order No. 098-20 on August 24, 2020 in Resolution No. 19-583.
18. On September 18, 2020, Governor Hogan issued State Executive Order 20-09-18-01 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order 20-09-18-01, if the political subdivision determines that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
19. On September 21, 2020, the Executive issued Executive Order No. 114-20, COVID-19 Local Order – Amending and Restating Order dated September 22, 2020, which imposed limitations on business and personal activities that are more restrictive than those permitted under State Executive Orders, but lessens the restrictions on certain businesses and activities. On September 22, 2020, the Council adopted Resolution No. 19-598, which approved Executive Order 114-20.
20. On September 26, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-09-18-01 in order to prevent the spread of COVID-19.
21. On September 26, 2020, the Executive issued Executive Order No. 117-20, COVID-19 – Local Order Amending and Restating Order dated September 22, 2020, which allows certain food service establishments to apply for a Late-Night Alcohol Sales Program permit. The Council approved Executive Order 117-20 on October 1, 2020 and the Board of Health approved Executive Order 117-20 as a Board of Health Regulation on October 1, 2020 in Resolution No. 19-618.
22. On October 16, 2020, Governor Hogan issued Executive Order 20-10-16-02 renewing the authority previously given to Maryland counties to continue to impose limitations on business and personal activities that were more restrictive than those permitted by State Executive Order Number 20-10-16-02, if the political subdivision determines

- that it is necessary and reasonable to do so in order to prevent the spread of COVID-19.
23. On November 3, 2020, the Executive and the County Health Officer determined that it is necessary and reasonable to continue to impose limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
  24. On November 3, 2020, the Executive issued Executive Order No. 122-20, COVID-19 – Local Order Amending and Restating Order dated September 29, 2020 which amends the limitations on business and personal activities that are more restrictive than those permitted by State Executive Order 20-10-16-02 in order to prevent the spread of COVID-19.
  25. The Council held a public hearing and worksession on Executive Order 122-20 on November 5. Based on the November 5 Council meeting, the Executive submitted Executive Order 122-20 AM on November 6, 2020.
  26. 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.
  27. The County Council, sitting as the Board of Health, finds after hearing the testimony and other evidence in the record of the public hearing, finds that the limitations on business and personal activities contained in Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020 are necessary to limit the spread of COVID-19.

### **Action**

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

Executive Order No. 122-20 AM, COVID-19 Local Order – Amending and Restating Order dated September 29, 2020, attached hereto, is adopted as a Board of Health Regulation for Montgomery County and takes effect on November 10, 2020 at 5:00 p.m.

This is a correct copy of Council action.



# MONTGOMERY COUNTY EXECUTIVE ORDER

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

Subject COVID-19 – Local Order Amending and Restating Order dated September 29, 2020	Executive Order No. 122-20 AM	Subject Suffix
Department Office of the County Executive	Department No.	Effective Date 11/10/2020

## BACKGROUND

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

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

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

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

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

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

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

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





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1. Administrative and Implementing Provisions.

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

2. Face Coverings.

a. Definitions.

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

b. Requirement.

- i. Except as provided in paragraph 2.c below, all persons in the County over the age of two (2) years old are required to wear a Face Covering
  - (1) in or on any form of Public Transportation;
  - (2) indoors at any location where members of the public are generally permitted, including without limitation, Religious Facilities, Retail Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Indoor Recreation Establishments, and Personal Services Establishments;
  - (3) outdoors and unable to consistently maintain at least six feet of distance from individuals who are not members of their household;
  - (4) obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and
  - (5) engaged in work in any area where:
    - a. interaction with others is likely, including without limitation, in shared areas of commercial offices; or
    - b. food is prepared or packaged.



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

### 3. General Operating Requirements.

- a. Unless explicitly stated in another provision of this order, all businesses, organizations, establishments, and facilities that are permitted to operate under this Order shall, as a condition of their continued operation:
  - i. require employees and customers to maintain social distancing of greater than 6 feet, whenever possible, as recommended by the Centers for Disease Control and Prevention (“CDC”) and the Maryland Department of Health (“MDH”);
  - ii. utilize markings and signage to guide employees and customers;
  - iii. comply with the face covering requirements in paragraph 2.b;



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- iv. provide employees with guidance and training to reflect updated CDC guidelines for their workplace;
- v. use CDC and Environmental Protection Agency (“EPA”) approved disinfectants to clean spaces daily; including use of disinfectants to wipe down high contact surfaces at least once every 2 hours while staff or customers are present (“high contact surfaces” are surfaces that will have human contact at least once an hour);
- vi. require employees to wash their hands hourly; and
- vii. follow review and implement new CDC, MDH, and Montgomery County Department of Health & Human Services (“DHHS”) guidelines as they are issued.

b. All businesses, organizations, establishments, and facilities in Montgomery County shall comply with any directive or orders issued by the Local Health Officer, pursuant to State Executive Orders [20-04-05-02](#) (“Delegating Authority to Local Officials to Control and Close Unsafe Facilities”) and [20-10-16-02](#) (“Amending and Restating the Order Allowing Reopening of Certain Businesses and Facilities Subject to Local Regulations and Generally Requiring Use of Face Coverings”), as may be amended from time to time.

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

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

#### 4. Letters of Approval.

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

#### 5. Gatherings.

- a. Unless explicitly stated in another paragraph of this Order:
  - i. Gatherings of more than 25 people continue to be prohibited at all locations and venues, including but not limited to parties, receptions, parades, festivals,



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conventions, and fundraisers. Planned large gatherings and events must be canceled or postponed until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded.

- ii. Social, community, recreational, and leisure gatherings may resume provided the following physical precautions are met and followed:
  - (1) limited to 1 person or household per 200 sq. ft. or a maximum of 25 people, whichever number is lower; and
  - (2) the size of the location and venue must accommodate applicable social distancing for the number of attendees.

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

- a. *Bowling alleys.* May open provided:
  - i. number of patrons is limited to 25% occupancy or a maximum of 25 people, whichever number is lower;
  - ii. all equipment (balls, shoes, etc.) and spaces (lanes, tables, seats) must be cleaned between each person(s) or group’s use with CDC and EPA approved cleaners; and
  - iii. any foodservice establishment located within the bowling alley must conform to all of the standards as established in paragraph 6.e. of this Order.
- b. *Childcare.* Must continue to follow the phase two childcare capacity limits that are currently in effect for all childcare providers in Montgomery County as stated in the Maryland Department of Education’s [June 10, 2020 Child Care Operating Procedures](#). All applicable Code of Maryland Regulations regarding staff-child ratio must be followed.
- c. *Cigar Bars/Hookah Bars/Vape Shops.* May open solely to sell retail goods. Smoking on site is strictly prohibited.
- d. *Fitness Centers.* May open provided:
  - i. limit 1 patron per 200 sq. ft. of indoor space or 25% occupancy, whichever number is lower;
  - ii. require individuals to wear masks while exercising; and
  - iii. follow the State’s [Best Practices for Fitness Centers, Martial Arts, Dance Studios](#) as amended from time to time.
  - iv. Fitness Centers include, but are not limited to dance studios, health clubs, health spas, gyms, training facilities, and other indoor physical activities.
  - v. Fitness Centers that provide sport-specific training for high-risk sports as defined in [Maryland Sports Commission Return to Play Report](#) must follow the restrictions in paragraph 6.1 below.



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e. *Foodservice Establishments.*

i. Restaurants, bars, and other similar establishments that sell food or beverages for consumption on-premises in Montgomery County (“Restaurants and Bars”), social and fraternal clubs (“Social Clubs”) with dining facilities, and foodservices in healthcare facilities, to the extent permitted by applicable law:

- (1) Must follow all provisions of the MDH’s [Amended Directive and Order Regarding Food Service Establishments](#) (Order No. MDH 20-09-18-01) that do not conflict with any provision of this Order;
- (2) total capacity of an indoor food service establishment shall not exceed 25% of that facility’s maximum occupancy;
- (3) shall ensure that all alcoholic beverages are off all tables and collected from patrons by 10 p.m.;
- (4) shall suspend the sale or provision of alcoholic beverages for on-site consumption after 10 p.m.;
- (5) may, to the extent permitted by law, continue to sell food and beverages that are promptly taken from the premises, i.e., on a carry-out, drive-through, or delivery basis;
- (6) must maintain a daily record of the following information for at least 30 days, to assist with contact tracing:
  - a. date;
  - b. time; and
  - c. name and contact information for at least one person of each dine-in party;
- (7) must follow any guidelines issued by DHHS and, to the extent applicable, the Department of Permitting Services; and
- (8) must post signage at each entrance advising customers and visitors that:
  - a. they must comply with the face covering requirements at all times when they are not actively eating or drinking;
  - b. they must maintain social distancing of at least 6 feet when
    - i. waiting to be seated
    - ii. when seated at a bar
  - c. failure to wear face coverings or maintain social distancing may result in their being refused service and found to be in violation of the COVID-19 Local Order and subject to criminal penalties as stated in the Order.

ii. Food service establishments that, within the last 60 days, have not received a citation or been closed due to violations related to any State or local executive order related to COVID-19 may apply for a Late-Night Alcohol Sales Program permit which would allow for alcohol service from 10 p.m. to 12 a.m.



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- (1) To receive a Late-Night Alcohol Sales Program permit a food service establishment must agree to the following requirements:
  - a. designate a staff member (or hire a contractor) whose sole responsibility is to monitor and enforce face covering and social distancing requirements of this Order, and any subsequent amendments thereto;
  - b. ensure that all alcoholic beverages are off all tables and collected from patrons by 12 a.m.;
  - c. suspend the sale or provision of alcoholic beverages after 12 a.m.; and
  - d. follow all protocols and guidelines issued by DHHS and the Board of License Commissioners related to this Program.
- (2) Food service establishments that receive a Late-Night Alcohol Sales Program permit will be subject to frequent and unscheduled inspections.
- (3) Food service establishments that are found to have violated any of the Late-Night Alcohol Sales Program requirements will be subject to:
  - a. immediate revocation of the permit;
  - b. the suspension or revocation of their license to sell alcohol; and/or
  - c. fines up to \$20,000.
- (4) The Late-Night Alcohol Sales Program will be automatically suspended if any of the following occur:
  - a. the 3-day test positivity average in Montgomery County exceeds 3.25%;
  - b. the 7-day average of confirmed COVID-19 cases exceeds 100;
  - c. there is an increased association of Indoor and Outdoor dining with COVID-19 positive contacts of greater than 3% combined; or
  - d. more than 10% of inspected participants result in findings that warrant a citation, closure, or revocation of a permit.

f. *Malls.*

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



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

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

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

h. *Personal Services.*

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

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

j. *Retail Establishments.* May open provided:

- i. limit 1 customer per 200 sq. ft of in-store space or 25% occupancy, whichever number is lower; and
- ii. employees use any additional Personal Protective Equipment as appropriate to their workplace.

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

- i. Gathering size.
  - (1) shall be determined by dividing the total square footage of the worship space by 50, however total number of individuals shall not exceed 25% of permitted occupancy; and



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- (2) occupancy numbers shall include faith leaders, volunteers, and congregants.
- ii. Spacing.
  - (1) seating must be marked to reflect appropriate distancing;
  - (2) facilities with fixed seating or pews, every other row must remain empty and marked off to prohibit seating;
  - (3) individuals that are not a part of the same household must maintain 6 feet of social distance from the point of entry into the facility through their exit from the facility; and
  - (4) only exceptions are where the core activity or safety require shorter distance (for example, pallbearers).
- iii. Other requirements.
  - (1) Prior to the first service of each day in which they participate, faith leaders, volunteers and other staff must:
    - a. be screened (verbally, in writing, or online) using the following questions:
      - i. Are you suffering from any of the common symptoms of COVID-19 (coughing, difficulty breathing, loss of taste etc.)?
      - ii. Have you had close personal contact with anybody known to have a positive COVID-19 diagnosis over the past two weeks?
    - b. where allowed by religious tenant, have their temperature screened:
      - i. anyone with a temperature in excess of 100.4°F must be excluded from the religious facility until at least 72 hours after symptoms resolve.
    - c. exclude anyone that exhibits symptoms consistent with COVID-19 until at least 72 hours after their symptoms resolve; and
    - d. notify Montgomery County Disease Control at 240-777-1755 if they learn that a person who attended or participated in a religious ceremony is diagnosed with or develops symptoms consistent with COVID-19.
  - (2) Use CDC and EPA approved disinfectants to clean restrooms and high contact surfaces between each religious service.
- iv. absent a Letter of Approval from DHHS, the number of outdoor service participants shall not exceed 150 participants.
- 1. *Sports.*
  - i. All sports are categorized by level of risk as detailed in the [Maryland Sports Commission Return to Play Report](#) with the following exceptions:
    - (1) solo kayaking/canoeing is considered to be low risk;





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- (2) tandem kayaking/canoeing is considered to be low risk if participants are from the same household.
- ii. Only the play of low-risk and medium-risk sports is permitted.
- iii. The play of high-risk sports is prohibited, however no-contact skills-building and drills are permitted.
- iv. High-risk sport scrimmages, games, matches, and competitions are prohibited.
- v. All sports participants, regardless of age must comply with the face covering requirement in paragraph 2.b, and the social distancing and hygiene requirements of paragraph 3.a.
- vi. Rented sport equipment must be thoroughly cleaned and disinfected pursuant to CDC guidelines using EPA approved cleaners and disinfectants between usage.
- vii. All tournaments, championships, or events are strictly prohibited unless a Letter of Approval is issued by the County.
- viii. Sports played outside must follow outdoor gathering guidelines and the number of people present is limited to 25. This includes staff, coaches, players, and any parents, guardians, or immediate family, with the following exception:
  - (1) The number of persons present may exceed 25 solely to accommodate the presence of 1 parent or guardian spectator per youth participant.
- ix. Sports played inside must follow the guidelines and size restrictions for fitness centers, with the following exception:
  - (1) The number of persons present may exceed the size restriction solely to accommodate the presence of 1 parent or guardian per youth participant.
- x. Play and games with teams from outside of Maryland, Virginia, or the District of Columbia is prohibited.
- xi. Sports may not open to the general public or spectators other than those identified in paragraph 6.l.xi.(1).
  - (1) For outdoor sports parents, guardians, and immediate family of players may spectate provided they maintain the appropriate social distancing of greater than 6 feet between non-family members.

m. *Youth Camp Programs.*

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

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

- a. *Car Wash.*
- b. *Escape Rooms.*
  - i. Only private games of a maximum of 6 people all permitted.



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- ii. All games are by appointment only and must be staggered so as to prevent patrons from interacting with others outside of their group.
- iii. Before and after each game, all items in game rooms (including but not limited to lock, props, and any touchable surfaces) are thoroughly cleaned using CDC and EPA approved disinfectants.
- iv. The lobby area is sanitized and cleaned every hour to prevent prolonged exposure and contact for other patrons.
- v. All items given to the patrons (walkie-talkies, boogie boards) are sanitized after each game prior to the use from another group.
- c. *Farms.* For “pick-your-own” produce by members of the public.
- d. *Manufacturing.*
- e. *Miniature golf.*
- f. *Office space.*
- g. *Outdoor recreation.*
  - i. parks for personal fitness and fitness classes;
  - ii. golf courses and driving ranges;
  - iii. outdoor archery and shooting ranges;
  - iv. marinas and watercraft rental businesses;
  - v. campgrounds;
  - vi. horse boarding and riding facilities; and
  - vii. playgrounds.
- (1) Playgrounds are excluded from the cleaning requirements of paragraph 3.a.v.
- h. *Ice skating rinks.*
  - i. Indoor ice skating rinks remain closed to the public but may operate as a Fitness Center for the purpose of individual or group training pursuant to paragraph 6.1.
  - ii. Outdoor ice skating rinks must follow the gathering size requirements, pursuant to paragraph 5 of this Order, and submit a request for a Letter of Approval, pursuant to paragraph 4, before reopening.

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

- a. *Amusement parks.* Including stand-alone types, such as, but not limited to merry-go-rounds and roller coasters.
- b. *Bingo halls.*
- c. *Go-kart tracks*
- d. *Recreation centers.*
- e. *Roller skating rinks.*
- f. *Senior Centers.*
- g. *Social Clubs.*
- h. *Theaters.*



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- i. This Order controls the occupancy and use of theatres in Montgomery County at which live performances occur or motion pictures are shown (“Theaters”).
    - ii. All Theaters shall remain closed to the general public.
  - i. *Trampoline Parks*.
  - j. Any other establishment not listed above that is subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.
9. *Minimal Operations*. Staff and owners may continue to be on-site at any business, organization, establishment, or facility that is required to be closed pursuant to this Order only for the following purposes:
- a. Facilitating remote working (a/k/a/ telework) by other staff;
  - b. Maintaining essential property;
  - c. Preventing loss of, or damage to property, including without limitation, preventing spoilage of perishable inventory;
  - d. Performing essential administrative functions, including without limitation, picking up mail and processing payroll; and
  - e. Caring for live animals.
10. This Order shall be enforced by any County department or agency that has authority over the subject matter of any particular provision and the Montgomery County Police Department.
11. I hereby adopt by reference the following portions of State Executive Order [20-10-16-02](#):
- a. paragraph III.k (“Determination of Maximum Occupancy”); and
  - b. paragraph VII (“General Provisions”) and all its subparagraphs.
12. Pursuant to State Executive Order [20-10-16-02](#) paragraph VII.b, a person who knowingly and willfully violates this Order is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.
13. Enforcement of this Local Order shall be done in accordance with the provisions established in State Executive Order [20-10-16-02](#) and any other applicable local law.
14. This Local Order may be amended, upon consultation with the Local Health Officer and the approval of the Montgomery County Council.
15. If any provision of this Local Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Local Order are severable.



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

By:   
MARC ELRICH  
County Executive

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

By:   
Silvia C. Kinch, Division Chief

Date: 11/6/2020



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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**To:** Licensed Child Care Providers, Essential Personnel Child Care (EPCC), and Essential Personnel School Age (EPSA) Providers

**From:** Steven R. Hicks  
Assistant State Superintendent  
Division of Early Childhood

**Subject:** Child Care Operating Procedures during COVID-19 Pandemic

**Date:** June 10, 2020

MSDE is providing this clarification on child care operating procedures in Maryland. All parents are now eligible to access child care services. All child care providers may reopen, as long as they follow all health department protocols listed on the MSDE website and adhere to class size restrictions. In order to reopen, providers must contact their licensing specialist and complete a *Child Care Verification of Reopening* form.

Class sizes in child care centers are now expanded to a maximum of 15 individuals per classroom with a ratio of no more than 1:14 for three and four year-olds. This is a temporary relaxing of the regulations. Family child care programs are limited to no more than 8 children at one time and no more than 15 persons total including residents. Family child care programs may serve different children on different days. They may also serve up to 8 children at one time in the evening and on weekends. All child care programs must continue to adhere to group size allowed for by age in licensing regulations.

Please continue to review our FAQs and resources on our website at <https://earlychildhood.marylandpublicschools.org/>.

Thank you for your continued service as essential persons providing child care for Maryland's families.



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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Date: October 9, 2020

From: Louis Valenti, Branch Chief of Licensing

To: Child Care Community

Re: Clarification of Child Care Operating Procedures for Montgomery County

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On **October 1, 2020**, Dr. Salmon made an announcement to allow child care programs in Maryland to return to group sizes and staff-child ratios approved on your license, pre-COVID-19. However, Montgomery County announced that child care providers will still have restrictions. Although the county may have limited the ability to go back to pre-COVID-19 COMAR regulations, the OCC needs to clarify what this means for child care providers in the county.

As of **November 30, 2020**, the COMAR regulations regarding group sizes and staff to child ratios will no longer be “relaxed”. This means that child care programs will be required to return to staff/child ratio of 1 staff to 10 children for ages three through four years and have the ability to have 1 staff to 15 for school age children. OCC also allows group sizes to be increased, according to what your program is approved on the program license, pre-COVID-19.

Effective **November 30, 2020**, all child care programs, regardless of county decisions, must follow COMAR regulations for staff-child ratios. You also have the ability to increase group sizes, if your county allows. This means that child care programs in every county must follow the 1 staff to 10 children ratio for ages 3 and 4 year olds. The maximum group size for children ages 3-and 4 years is 20 children, if your county allows for the group size increase. If they do not, **the ratio must still be maintained at 1 staff to 10 children.**

Should you have any questions, please feel free to contact your Licensing Specialist.



OFFICE OF THE COUNTY EXECUTIVE

*Marc Elrich*  
County Executive

November 4, 2020

Karen B. Salmon, Ph.D.  
State Superintendent of Schools  
Office of State Superintendent  
State Department of Education  
200 West Baltimore Street,  
Baltimore, Maryland 21201

Dear Dr. Salmon:

On October 1, 2020, Governor Hogan announced that childcare programs in Maryland would again be subject to Code of Maryland Regulations (COMAR), lifting relaxed group sizes and staff-child ratios approved during Phase 1 and 2 of the Governor's *Maryland Strong: Roadmap to Recovery* reopening plan. Montgomery County has yet to move to Phase 3 of the plan based on data that show a recent increase in COVID-19 cases and a continued high percentage of new cases in the zero to 19-year-old age group. On October 6, 2020, Montgomery County decided that childcare providers would remain in Phase 2 of the reopening plan, and therefore, childcare enrollment will be subject to current group size restrictions, as follows:

- 15 people maximum in a classroom for childcare centers
- 15 people maximum per household for family childcare homes

In returning to the standards established in COMAR, childcare programs are required to maintain a 1:10 teacher-child ratio for classrooms with 3 and 4-year-olds. It is my understanding that although jurisdictions can limit childcare program group sizes, they do not have the authority to revise this teacher-child ratio. Therefore, I am requesting an accommodation in the form of a waiver that would allow Montgomery County to maintain the relaxed teacher-child ratios that were in place before the Governor advanced his reopening plan to Phase 3.

To continue to mitigate transmission, Montgomery County is following the guidance outlined by the Center of Disease Control and Prevention (CDC). The CDC recommends that childcare use a cohort model of care and learning experiences with full capacity levels between 25 to 50 percent. Children and staff in the same class cohort can learn, eat, play and access facilities together but should not mix with children or staff in other class cohorts.

Karen B. Salmon, Ph.D.  
November 4, 2020  
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Thank you for considering this request, and I look forward to receiving your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Elrich". The signature is fluid and cursive, with the first name "Marc" written in a larger, more prominent script than the last name "Elrich".

Marc Elrich

cc: Hon. Steven R. Schuh  
Hon. Anne Kaiser  
Hon. Craig Zucker  
Hon. Marc Korman