The State of Maryland

Executive Department

ORDER
OF THE
GOVERNOR OF THE STATE OF MARYLAND

NUMBER 21-01-28-01

AMENDING AND RESTATING THE ORDER OF NOVEMBER 17, 2020, REGULATING CERTAIN BUSINESSES AND FACILITIES AND GENERALLY REQUIRING USE OF FACE COVERINGS

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, April 10, May 6, June 3, July 1, July 31, August 10, September 8, October 6, October 29, November 25, December 23, 2020, and January 21, 2021, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;

WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;

WHEREAS, To reduce the spread of COVID-19, the U.S. Centers for Disease Control and Prevention and the Maryland Department of Health recommend canceling large gatherings and social distancing in smaller gatherings;

WHEREAS, The currently known and available scientific evidence and best practices support limitations on large gatherings and 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 the novel coronavirus in Maryland, and to protect and save lives, it is necessary and reasonable that individuals in the state refrain from congregating;

WHEREAS, To protect the public health, welfare, and safety, prevent the transmission of the novel coronavirus, control the spread of COVID-19, and save lives, it is necessary to control and direct the movement of individuals in Maryland, including those on the public streets;

WHEREAS, It is further necessary to control and direct in Maryland the occupancy and use of buildings and premises, as well as places of amusement and assembly;

WHEREAS, the Coronavirus Recovery Team continues to advise on related public health and emergency management decisions;

WHEREAS, the State has implemented measures to reduce community transmission rates of COVID-19, while strategically activating the Maryland Strong: Roadmap to Recovery plan;

WHEREAS, the State is continuously expanding COVID-19 laboratory testing capacity and locations throughout Maryland, and has increased its disease-investigation capabilities by implementing operations to trace the contacts of up to 1,000 new cases per day;

WHEREAS, the State has carefully monitored hospital capacity, and has worked with hospitals to ensure their surge capacity can accommodate Marylanders who may become ill;

WHEREAS, the State is procuring necessary protective equipment to safeguard critical facilities and staff; and

WHEREAS, the Coronavirus Recovery Team has advised that widespread use of Face Coverings is likely to help control the spread of COVID-19;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

I. Administrative and Implementing Provisions.

a. The Order of the Governor of the State of Maryland, dated March 12, 2020, entitled "Prohibiting Large Gatherings and Events and Closing Senior Centers," as amended and restated on March 16, 2020, and further amended and restated on March 19, 2020 by Order Number 20-03-19-01, and further amended and restated on March 23, 2020 by Order Number 20-03-29-01, and further amended and restated on March 30, 2020 by Order Number 20-03-30-01, and further amended and restated on May 6, 2020 by Order Number 20-05-06-01, and further amended and restated on May 13, 2020 by Order Number 20-05-13-01, and further amended and restated on May 27, 2020 by Order Number 20-05-27-01, further amended and restated on June 3, 2020 by Order Number 20-06-03-01, further amended and restated on June 10, 2020 by Order Number 20-06-10-01, further amended and restated on July 29, 2020 by Order Number 20-07-29-01, further amended and restated on August 3, 2020 by Order Number 20-08-03-01, further amended and restated on September 1, 2020 by Order Number 20-09-01-01, and further amended and restated on September 18, 2020 by Order Number 20-09-18-

01, further amended and restated on September 28, 2020 by Order Number 20-09-28-01, further amended and restated on October 16, 2020 by Order Number 20-10-16-01, and further amended and restated on November 10, 2020 by Order Number 20-11-10-01, and further amended and restated on November 17, 2020 by Order Number 20-11-17-01, is further amended and restated in its entirety as set forth herein.

b. The Secretary of Health (the "Secretary") is hereby authorized to issue directives under this Order ("Secretary's Directives"), as the Secretary deems necessary, to monitor, treat, prevent, reduce the spread of, and suppress COVID-19 in relation to any activity permitted under this Order or any business, organization, establishment, or facility that is permitted by this Order to be open to the general public, which directives may consist of binding requirements and/or non-binding recommendations, and may include, without limitation, requirements pertaining to physical distancing, cleaning, disinfection, COVID-19 symptom screening, restrooms and other shared facilities, concessions, and/or ingress, egress, and movement of persons.

c. Political subdivisions are not prohibited from opening outdoor public spaces to the general public (such as parks, sports fields and courts, beaches, dog parks, and playgrounds), subject to the following:

    i. The decision to do so shall be made after consultation with the health officer for the county in which the outdoor public space is located (or, in the case of outdoor public spaces located in Baltimore City, the Commissioner of Health for Baltimore City) (the "Local Health Officer").

    ii. The Local Health Officer may issue such directives or orders as may be necessary to monitor, prevent, reduce the spread of, and suppress COVID-19 with respect to the use of the outdoor public space ("Health Officer Directives").

    iii. The political subdivision must require persons using the outdoor public space to comply with applicable Secretary's Directives, applicable Health Officer Directives, and applicable social distancing guidance published by the U.S. Centers for Disease Control and Prevention ("CDC") and the Maryland Department of Health ("MDH").

d. If a political subdivision determines that doing so is necessary and reasonable to save lives or prevent exposure to COVID-19, the political subdivision is hereby authorized to issue orders that are more restrictive than this Order ("Local Orders"):

    i. requiring any businesses, organizations, establishments, or facilities (except schools) to close or modify their operations; and/or

    ii. requiring individuals to remain indoors or to refrain from congregating.

e. Local Orders may remain in effect for so long as the authority granted by

paragraph I.d (as it may be amended from time to time) remains in effect. The authority granted by paragraph I.d (as it may be amended from time to time) is in addition to, not in derogation of, any authority of a political subdivision under its charter, laws, ordinances, or regulations.

II. Social Distancing.

a. It is strongly recommended that all Marylanders continue following the most current guidance from CDC and MDH regarding social distancing, including, without limitation, avoidance of large gatherings and crowded places.

b. The Secretary is hereby authorized to issue Secretary's Directives requiring individuals to remain indoors or to refrain from congregating, as the Secretary deems necessary to monitor, treat, prevent, reduce the spread of, and suppress COVID-19.

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

a. *Religious Facilities*. Subject to applicable Local Orders and Secretary's Directives, churches, synagogues, mosques, temples, and other similar religious facilities of any faith in Maryland ("Religious Facilities") may open to the general public, *provided, however*, that the total number of persons permitted in a Religious Facility at any one time shall not exceed 50% of that Religious Facility's Maximum Occupancy (defined below).

b. *Retail Establishments and Malls*.

i. Subject to applicable Local Orders and Secretary's Directives:

1. retail businesses, organizations, establishments, and facilities in the State of Maryland ("Retail Establishments") may open to the general public, *provided, however*, that the total number of persons permitted in a Retail Establishment at any one time shall not exceed 50% of that Retail Establishment's Maximum Occupancy (defined below); and

2. shopping centers in the State of Maryland that have one or more enclosed pedestrian concourses may open to the general public.

ii. All Retail Establishments shall, in good faith and to the extent possible:

1. where any queue is expected to form, designate with signage, tape, or by other means at least six-foot spacing for persons in line;

2. sanitize, or provide customers with a means to sanitize, handles of carts and baskets that are available to customers;

3. provide staff and customers with clean restrooms stocked with soap or sanitizer, and allow staff to wash their hands at least once

every 30 minutes; and

4. post signage at each entrance advising customers about the requirement to wear Face Coverings described in paragraph IV.b.

c. *Manufacturing*. Subject to applicable Local Orders and Secretary's Directives, all manufacturing businesses and facilities in Maryland may open.

d. *Personal Services*.

i. Subject to applicable Local Orders, applicable Secretary's Directives and paragraph III.d.ii below, the following establishments in Maryland ("Personal Services Establishments") may open to the general public:

1. beauty salons;
2. barber shops;
3. tattoo parlors;
4. tanning salons;
5. massage parlors; and
6. establishments that provide esthetic services or provide nail technician services (as described in Title 5 of the Business Occupations Article of the Maryland Code);

ii. All Personal Services Establishments shall:

1. provide services on an appointment basis only;
2. not allow the number of persons in the Personal Services Establishment to exceed 50% of the Personal Services Establishment's Maximum Occupancy (defined below); and
3. after providing services to each customer, clean and disinfect the area in which services were performed in accordance with applicable guidance from the CDC and MDH.

e. *Other Recreational Establishments*.

i. Subject to applicable Local Orders and Secretary's Directives, the following establishments in Maryland may open to the general public:

1. golf courses and driving ranges;
2. outdoor archery and shooting ranges;
3. marinas and watercraft rental businesses;
4. campgrounds;
5. horse boarding and riding facilities;
6. drive-in movie theaters;
7. outdoor swimming pools;
8. outdoor day camps;
9. tour boats;
10. amusement parks;

11. miniature golf establishments;
12. go-kart tracks; and
13. the outdoor areas of any other establishments that are subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code.

ii. Subject to applicable Local Orders and Secretary's Directives, the following establishments in Maryland ("Indoor Recreation Establishments") may open to the general public:

1. bingo halls;
2. bowling alleys;
3. pool halls;
4. roller and ice skating rinks;
5. social and fraternal clubs (including without limitation, American Legion posts, VFW posts, and Elks Clubs) ("Social Clubs"); and
6. the indoor areas of any other establishments that are subject to the admission and amusement tax under Title 4 of the Tax-General Article of the Maryland Code;

provided, however, that the total number of persons permitted in an Indoor Recreation Establishment at any one time shall not exceed 50% of that Indoor Recreation Establishment's Maximum Occupancy (defined below).

f. *Foodservice Establishments*.

i. Subject to applicable Local Orders, applicable Secretary's Directives, and paragraph III.f.ii below, (a) restaurants, bars, nightclubs, banquet and catering halls, and other similar establishments that sell and/or serve food or beverages for consumption on-premises in Maryland, and (b) Social Clubs with dining facilities (collectively, "Foodservice Establishments") may, to the extent permitted by applicable law:

1. serve food and beverages to customers for consumption in outdoor seating areas;
2. sell food and beverages that are promptly taken from the premises, i.e., on a carry-out or drive-through basis;
3. deliver food and beverages to customers off the premises; and
4. serve food and beverages to customers for consumption in indoor seating areas.

ii. Foodservice Establishments shall:

1. not allow the number of persons in the Foodservice Establishment to exceed 50% of the Foodservice Establishment's Maximum Occupancy (defined below);
2. not serve food in a buffet format;
3. not serve customers who are not seated;

4. clean and disinfect each table between each seating in accordance with CDC and MDH guidelines, using cleaning products that meet the criteria of the U.S. Environmental Protection Agency for use against COVID-19; and
5. not be open to the public between the hours of 10:00 p.m. and 6:00 a.m.; *provided, however*, that during such hours Foodservice Establishments may continue to (a) sell food and beverages that are promptly taken from the premises (i.e., on a carry-out or drive-through basis), and (b) deliver food and beverages to customers off the premises; and *provided further*, that this paragraph III.f.ii.5 shall cease to be effective at 12:01 a.m. on February 1, 2021.

iii. As used in this paragraph III.f:

1. the term "indoor seating area" means a portion of a Foodservice Establishment that is an indoor area, as defined in COMAR 10.19.04.02.B(9); and
2. the term "outdoor seating area" means a portion of a Foodservice Establishment that is not an indoor seating area.

g. *Fitness Centers*. Subject to applicable Local Orders and Secretary's Directives, fitness centers, health clubs, health spas, gyms, aquatic centers, and self-defense schools in Maryland ("Fitness Centers") may open to the general public; *provided, however*, that the total number of persons permitted in a Fitness Center at any one time shall not exceed 50% of that Fitness Center's Maximum Occupancy (defined below).

h. *Casinos, Racetracks, and Simulcast Betting Facilities*.

i. Subject to applicable Local Orders, Secretary's Directives, and paragraph III.h.iii below, the following establishments ("Gaming Facilities") may open to the general public:

1. MGM National Harbor;
2. Live! Casino & Hotel;
3. Horseshoe Casino Baltimore;
4. Hollywood Casino Perryville;
5. Ocean Downs Casino;
6. Rocky Gap Casino Resort; and
7. all simulcast betting facilities in the State, to the extent not otherwise included in the buildings and premises listed above.

ii. Subject to applicable Local Orders, Secretary's Directives, and paragraph III.h.iv below, the following establishments ("Racing Facilities") may open to the general public:

1. Laurel Park;
2. Pimlico Race Course;

3. Timonium Race Course;
4. Fair Hill Races;
5. Rosecroft Raceway; and
6. Ocean Downs.

iii. The total number of persons permitted in a Gaming Facility at any one time shall not exceed 50% of that Gaming Facility's Maximum Occupancy (defined below).

iv. The total number of persons permitted in a Racing Facility at any one time shall not exceed the lesser of (a) 50% of that Racing Facility's Maximum Occupancy (defined below), or (b) 250 persons.

i. *Other Businesses*. Except as otherwise closed by this Order or any other Order of the Governor of the State of Maryland, subject to applicable Local Orders and Secretary's Directives, businesses, organizations, establishments, and facilities that are not part of the critical infrastructure sectors identified by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (currently described at https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19) may open to the general public.

j. *Theaters, Outdoor Entertainment and Sporting Venues*. Subject to applicable Local Orders and Secretary's Directives:

i. theatres in Maryland at which live performances occur or motion pictures are shown indoors ("Indoor Theaters") may open to the general public; *provided, however*, that the total number of persons permitted in an Indoor Theater at any one time (per individual auditorium or performance stage) shall not exceed the lesser of (i) 50% of that Indoor Theater's Maximum Occupancy (defined below), or (ii) 100 persons;

ii. venues in Maryland at which live performances occur or motion pictures are shown outdoors, and at which entry is limited to ticketed customers ("Outdoor Entertainment Venues"), may open to the general public; *provided, however*, that the total number of persons permitted in an Outdoor Entertainment Venue at any one time shall not exceed the lesser of (A) 50% of that Outdoor Entertainment Venue's Maximum Occupancy (defined below), or (B) 250 persons; and

iii. outdoor venues at which sporting events occur (including, without limitation, major league, professional, minor league, semi-professional, amateur, recreational, motor sports, and collegiate sporting events) ("Outdoor Sporting Venues"), may open to the general public, *provided, however*, that the total number of persons permitted in an Outdoor Sporting Venue at any one time shall not exceed the lesser of (A) 50% of that Outdoor Sporting Venue's Maximum Occupancy (defined below), or (B) 250 persons.

k. *Maximum Occupancy; Indoor vs. Outdoor*.

i. With respect to a Religious Facility, Retail Establishment, Foodservice Establishment, Fitness Center, Gaming Facility, Racing Facility, Indoor Recreation Establishment, Personal Services Establishment, Indoor Theater, Outdoor Entertainment Venue, or Outdoor Sporting Venue (a "Facility"), "Maximum Occupancy" means:

1. The maximum occupancy load of the Facility under the applicable fire code, as set forth on a certificate issued for the Facility by a local fire code official; or
2. If no such certificate has been issued for the Facility by the local fire code official, the maximum occupancy of the Facility pursuant to applicable laws, regulations, and permits.

ii. As used herein:

1. the term "indoor area" has the meaning provided in COMAR 10.19.04.02.B(9); and
2. the term "outdoor area" means an area that is not an indoor area.

l. *Operating Requirements*. All businesses, organizations, establishments, and facilities in Maryland shall comply with:

i. applicable Local Orders;
ii. applicable Secretary's Directives;
iii. applicable social distancing guidance published by CDC and MDH; and
iv. orders issued by the applicable Local Health Officer pursuant to the Order of the Governor of the State of Maryland Number 20-04-05-02, dated April 5, 2020, entitled "Delegating Authority to Local Officials to Control and Close Unsafe Facilities", as it may be amended from time to time.

IV. Face Coverings.

a. *Definitions*. As used herein:

i. "Face Covering" means a covering that fully covers a person's nose and mouth and is secured to the person's head, but is not a Medical-Grade Mask. The term "Face Covering" includes, without limitation, scarves, bandanas, and plastic full-face shields.

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, transit services provided by

any other unit of the State or any political subdivision, and all related stations and platforms. Examples of Public Transportation include, but are not limited to MTA bus service, MARC train service, Light Rail train service, MTA Metro subway service, and Mobility and Paratransit services.

b. *Requirement to Wear Face Coverings*.

i. Except as provided in paragraph IV.c, all persons in Maryland over the age of five (5) years old are required to wear a Face Covering when they are:

1. in or on any 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, the indoor portions of Racing Facilities, Indoor Recreation Establishments, Personal Services Establishments, and Indoor Theaters;

3. at any Outdoor Sporting Venue or Outdoor Entertainment Venue;

4. outdoors at any location other than an Outdoor Sporting Venue or Outdoor Entertainment Venue, and unable to consistently maintain at least six feet of distance from individuals who are not members of their household;

5. obtaining healthcare services, including without limitation, in offices of physicians and dentists, hospitals, pharmacies, and laboratories; and

6. 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.

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 IV.b.i to wear a Face Covering, but all Marylanders are urged to reserve Medical-Grade Masks for use by health care workers and first responders.

c. *Exceptions*. Paragraph IV.b.i 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. 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; or

viii. to the extent it is necessary to observe the person's entire face to verify such person's identity for bona fide security purposes.

V. Businesses, Organizations, Establishments, and Facilities Required to Close.

a. *Senior Centers*. All senior citizen activities centers (as defined in Section 10-501(i) of the Human Services Article of the Maryland Code) shall remain closed.

b. *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 for only the following purposes:

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

ii. Maintaining essential property;

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

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

v. Caring for live animals.

c. *Closure By Other Order*. All businesses, organizations, establishments, and facilities that are required to close pursuant to any other Order of the Governor of the State of Maryland or any other Order of a political subdivision, shall be and remain closed in accordance with such other Order, as the case may be.

VI. Government Buildings and Facilities with Large Occupancy or Attendance.

a. State and local government buildings and facilities with an expected occupancy or attendance of more than 10 people shall:

   i. Promptly and conspicuously post in the building or facility a copy of the MDH recommendations for social distancing; and
   ii. Provide all occupants and attendees with the capability to wash their hands.

b. A copy of this Order shall be made available to all occupants or attendees at any State or local government building and facility with an expected occupancy or attendance of more than 10 people.

VII. General Provisions.

a. Each law enforcement officer of the State or a political subdivision shall execute and enforce this Order and any Local Order.

b. A person who knowingly and willfully violates this Order or any Local 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.

c. This Order remains effective until after termination of the state of emergency and the proclamation of the catastrophic health emergency has been rescinded, or until rescinded, superseded, amended, or revised by additional orders.

d. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order is hereby suspended to the extent of the inconsistency.

e. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.

f. If any provision of this 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 Order are severable.

ISSUED UNDER MY HAND THIS 28TH DAY OF JANUARY, 2021.

Lawrence J. Hogan, Jr.
Governor