EXECUTIVE ORDER NO. 219

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, 210, and 215, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, November 22, 2020, December 21, 2020, and January 19, 2021, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 has continued to spread across New Jersey, I have issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-198, No. 200, Nos. 203-204, No. 207,

Nos. 214-216 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, because of the progress we had made in our fight against the COVID-19 pandemic in New Jersey, on Monday, June 22, 2020, I announced that indoor dining would be able to resume under strict limits as of Thursday, July 2, 2020, and that decision was formalized in Executive Order No. 157; and

WHEREAS, while Executive Order No. 157 (2020) announced the limited resumption of indoor dining, this step was put on hold in Executive Order No. 158 (2020), in light of COVID-19 spikes in states around the nation which state officials and other experts had attributed, at least in part, to activities in indoor food and beverage establishments; and

WHEREAS, indoor dining was permitted to resume on September 4, 2020, pursuant to Executive Order No. 183, with strict health and safety protocols in place, including limiting the number

of patrons to 25 percent of the establishment's stated maximum capacity; and

WHEREAS, Executive Order No. 157 (2020) permitted certain recreation and entertainment businesses, to open their indoor premises subject to their compliance with specified health and safety protocols, including the same 25 percent capacity limitation; and

WHEREAS, Executive Order No. 157 (2020) permitted casinos and racetracks to resume operations conditioned on their compliance with requirements imposed by the Division of Gaming Enforcement and New Jersey Racing Commission; and

WHEREAS, Executive Order No. 181, issued August 27, 2020, permitted gyms, fitness centers, and health clubs to open their indoor spaces to the public at 25 percent of the facility's stated maximum capacity; and

WHEREAS, personal care service facilities were permitted to reopen their premises to the public pursuant to Paragraph 2 of Executive Order No. 157 (2020); and

WHEREAS, Executive Order No. 194 (2020) clarified that premises of indoor facilities providing personal care services are limited to 25 percent of the stated maximum capacity; and

WHEREAS, Executive Order No. 196 (2020), issued November 16, 2020, declared that athletic practices and competitions, including professional and collegiate events, conducted indoors were subject to the indoor gathering limit of 10 persons, but permitted those events to exceed the gathering limits so long as no individuals were present who were not necessary for the event, though still at levels no greater than 25 percent of the room's capacity of 150 persons, whichever is lower; and

WHEREAS, Executive Order No. 204 (2020) clarified that indoor meetings of addiction support groups are limited to 25 percent of the capacity of the room in which they take place, up to a maximum of 150 individuals; and

WHEREAS, in the past eleven months, we have gained critical knowledge regarding COVID-19, including a better understanding of the risks associated with certain activities, the activities that are most conducive to spread of the virus, and the safeguards that can be implemented to mitigate those risks; and

WHEREAS, this information, together with expanded access to testing, personal protective equipment, and other materials necessary to protect individuals from spread of the virus, as well as the ongoing COVID-19 Vaccination Plan ("Plan") discussed below, allows for certain activities to continue subject to more limited restrictions; and

WHEREAS, the statewide rate of transmission and the number of new hospital admissions, current hospitalized patients, ventilators in use, and patients in intensive care have all either decreased or remained stable over the past few weeks; and

WHEREAS, given the decrease in these key statistics, the State can take cautious, incremental steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, the current 25 percent capacity limit on the indoor premises of the above referenced establishments and on the indoor gathering limit for certain activities can safely be raised to 35 percent, a limit that will continue to minimize congregation of large numbers of individuals in indoor settings; and

WHEREAS, in light of these improvements, it is also reasonable to permit food and beverage establishments to offer in-person service at indoor areas between the hours of 10:00 p.m. and

5:00 a.m. each day while other mitigation protocols, including the prohibition on indoor bar seating and standing, remain in place; and

WHEREAS, even with the loosening of this restriction, certain municipalities and counties may continue to have legitimate concerns about congregation in and around businesses at particular hours, which may cause public health concerns as we aim to avoid unnecessary increases in density of individuals; and

WHEREAS, as part of the State's response to COVID-19, DOH has created a comprehensive Plan to manage the receipt, administration, and tracking of the vaccines developed to inoculate the State's residents and workforce against COVID-19; and

WHEREAS, the State has thus far administered over 700,000 doses of COVID-19 vaccines to individuals that live, work, and are educated in New Jersey and fit into specified high-risk categories, including healthcare workers and residents and staff of congregate care facilities that are at greater risk of exposure to COVID-19, frontline first responders including sworn law enforcement officers, individuals over the age of 65, and individuals aged 16 to 64 years who are more inclined to severe illness as the result of exposure to COVID-19; and

WHEREAS, though additional vaccines are currently under development, the first vaccines that arrived in the State require two doses to be effective; and

WHEREAS, the process of vaccinating the population to levels sufficient to establish community immunity is expected to take many months; and

WHEREAS, while New Jersey is rapidly expanding its capacity to vaccinate large numbers of individuals each day, it is still appropriate to maintain strict mitigation protocols, including overall limits on capacity in establishments open to the public, to ensure spread is limited while dissemination of the vaccine continues; and

WHEREAS, it is critical that individuals continue to follow social distancing, masking, and other infection control protocols while vaccine administration is ongoing in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Restaurants, cafeterias, dining establishments, including private, non-profit clubs, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges, collectively referred to as "food or beverage establishments," that are open to the public:

a. Shall limit the number of patrons in indoor areas to 35 percent of the food and beverage establishment's indoor capacity, excluding the food or beverage establishment's employees. Paragraph 1 of Executive Order No. 183 (2020) is hereby

rescinded to the extent that it conflicts with the provisions of this Order; and

b. Are permitted to offer in-person service at indoor areas between the hours of 10:00 p.m. and 5:00 a.m. each day, unless otherwise restricted by municipal or county ordinance. Casinos and any other retail, recreational, or entertainment businesses that are authorized to open their indoor premises to the public are permitted to resume indoor food and beverage service at those hours each day. Paragraph 1 of Executive Order No. 194 (2020) requiring such establishments to close their indoor operations to the public during those times is hereby rescinded. Executive Order No. 195 (2020), which gives municipalities and counties the ability to impose certain restrictions on the hours of operation of certain businesses, shall remain in effect.

2. Entertainment centers where performances are viewed or given, including movie theaters, performing arts centers, and other concert venues, that have opened their indoor spaces to the public must limit the number of patrons in any indoor room where a performance is viewed or given to 35 percent of the stated maximum capacity, if applicable, at one time, excluding the entertainment business's employees, but regardless of the capacity of the room, such limit shall never be larger than 150 persons. Such indoor entertainment centers may host a performance in an adjacent outdoor area with a maximum capacity equivalent to the facility's indoor capacity permitted under this Paragraph. Paragraph 2 of Executive Order No. 183 (2020) and Administrative

Order No. 2020-24 are hereby rescinded to the extent that they conflict with the provisions of this Order.

3. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 35 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 150 persons or smaller than 10 persons. For purposes of this Paragraph, any private residence or residential unit shall be treated as a single "room." Paragraph 1 of Executive Order No. 196 (2020) is hereby rescinded to the extent that it conflicts with the provisions of this Order.

4. Personal care services authorized to reopen their indoor facilities to the public pursuant to Paragraph 2 of Executive Order No. 157 (2020) shall limit occupancy of any indoor premises to 35 percent of the stated maximum capacity, if applicable, at one time, excluding the facility's employees. Paragraph 8 of Executive Order No. 194 (2020) is hereby rescinded to the extent that it conflicts with the provisions of this Order.

5. "Health clubs," as defined by N.J.S.A. 56:8-39, which include gyms and fitness centers, as well as amusement and water parks, authorized to reopen their indoor facilities to the public pursuant to Paragraph 1 of Executive Order No. 181 (2020) shall limit occupancy of any indoor premises to 35 percent of the stated maximum capacity, if applicable, at one time, excluding the facility's employees. Paragraph 1 of Executive Order No. 181 (2020) is hereby rescinded to the extent that it conflicts with the provisions of this Order.

6. Recreational and entertainment businesses that were permitted to reopen their indoor facilities to the public pursuant to Paragraph 7 of Executive Order No. 157 (2020) shall limit occupancy of any indoor premises to 35 percent of the stated maximum capacity, if applicable, at one time, excluding the recreational or entertainment business's employees. Paragraph 7 of Executive Order No. 157 (2020) is hereby rescinded to the extent that it conflicts with the provisions of this Order.

7. Casinos, including casino gaming floors and retail sports wagering lounges, that have opened their indoor premises to the public shall limit occupancy of any indoor premises to 35 percent of the stated maximum capacity, if applicable, at one time, excluding the facility's employees.

8. Athletic practices and competitions that were permitted to resume on January 2, 2021 under Executive Order No. 204 (2020) are subject to the current indoor gathering limit, which was most recently set at 10 persons. However, if the number of individuals who are necessary for a no-contact practice, contact practice, or competition, such as players, coaches, and referees, is greater than 10 persons, such a practice or competition may proceed, as long as no individuals are present who are not necessary for the practice or competition, such as spectators. If this exception applies, the number of individuals at such an indoor gathering still may not exceed 35 percent of the capacity of the room in which it takes place, and such limit may not exceed 150 persons. Administrative Order No. 2020-25 is hereby rescinded to the extent that it conflicts with the provisions of this Order.

9. Professional and collegiate athletic competitions that are conducted indoors are subject to the current indoor gathering limit of 10 persons. Athletes, coaches, referees, and trainers,

and other individuals who are necessary for the competitive professional or collegiate sporting event are not included in the number of individuals present at a gathering for purposes of the limits on gatherings. The number of individuals present inside facilities where indoor professional or collegiate athletic competitions are taking place may not exceed 35 percent of the capacity of the room in which it takes place, and such limit may not exceed 150 persons. The provisions of Paragraph 1 of Administrative Order No. 2020-22 regarding indoor gatherings shall continue to apply. Paragraph 2 of Executive Order No. 196 (2020) is hereby rescinded to the extent that it conflicts with the provisions of this Order.

10. Indoor gatherings that involve an Alcoholics Anonymous meeting, Narcotics Anonymous meeting, or similar meeting of an addiction support group shall be limited to 35 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 150 persons or smaller than 10 persons. Paragraph 7 of Executive Order No. 204 (2020) is hereby rescinded to the extent that it conflicts with the provisions of this Order.

11. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

12. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of

any nature whatsoever, to cooperate fully in all matters concerning this Order.

13. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement, except as otherwise provided in Executive Order No. 195 (2020).

14. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

15. This Order shall take effect at 8:00 a.m. on Friday, February 5, 2021, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this 3rd day of February, Two Thousand and Twenty-one, and of the Independence of the United States, the Two Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor