



JOHN A. OLSZEWSKI, JR.
County Executive

JAMES R. BENJAMIN, JR., *County Attorney*
Office of Law

INTERPRETIVE GUIDANCE

Number: BCo-COVID19-010

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Re: December 15, 2020 Health Directive and Order and Executive Order No. 2020-023 – Amending and Restating Executive Order No. 2020-022

Baltimore County issued Executive Order No. 2020-023 on November 23, 2020. Executive Order No. 2020-023 went into effect immediately. In addition, the Health Officer issued a Health Directive and Order on December 15, 2020 that went into effect at 5:00 p.m. on December 17, 2020.

Baltimore County’s Office of Law (“OOL”) has continued to receive requests for guidance from local businesses and organizations about how to interpret Executive Order 2020-023 and the Health Directive and Order issued December 15, 2020. OOL will publish its responses to requests for guidance, which could apply to multiple businesses and organizations. OOL will update this document as it issues additional responses to requests for guidance.

Executive Order No. 2020-023 and the December 15, 2020 Health Directive and Order are both enforceable. Each should be given equal weight and should be read together. They should be viewed as complementary, not contradictory. Accordingly, OOL recommends that Executive Order No. 2020-023 and the December 15, 2020 Health Directive and Order be interpreted as follows:

Social Gatherings

Indoor social gatherings of more than ten (10) people are prohibited. Outdoor social gatherings of more than twenty-five (25) people are prohibited.

For purposes of Executive Order No. 2020-023, social gatherings do not include gatherings at Retail Establishments, Religious Facilities, Personal Services Establishments, Foodservice Establishments, Fitness Centers, Gaming Facilities, Racing Facilities, Indoor Theaters or Outdoor Entertainment Venues, as those terms are defined in Executive Order No. 2020-023. Social gatherings do not include gatherings at Outdoor Recreation

Establishments¹ or Indoor Recreation Establishments² as those terms are defined in Executive Order No. 2020-023, with the exception of those gatherings that involve or concern all non-professional sports gatherings and events other than collegiate sports that have had a COVID plan approved by the Baltimore County Department of Health.

Social gatherings, for purposes of Executive Order No. 2020-023, include, but are not limited to, family gatherings, parties, cookouts, parades, festivals, conventions, fundraisers, and other gatherings not associated with operating or patronizing a business.

Residents of one household do not constitute a social gathering. If more than one household is present, however, it would constitute a social gathering and each individual present at the gathering would be counted, for purposes of determining compliance, towards the applicable gathering limit.

¹ The following establishments are considered Outdoor Recreation Establishments under Executive Order No, 2020-023:

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 day camps;
8. tour boats;
9. amusement parks;
10. miniature golf establishments;
11. go-kart tracks; and
12. 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.

² The following establishments are considered Indoor Recreation Establishments under Executive Order 2020-023:

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.

This means that establishments such as climb zones, bounce houses, and the like would also be considered Indoor Recreation Establishments under Executive Order 2020-023.

Social gatherings, for purposes of Executive Order No. 2020-023, shall also include all non-professional sports gatherings and events except for collegiate sports that have had a COVID plan approved by the Baltimore County Department of Health, and shall include high school, youth, amateur and/or recreational sports, tournaments, clinics, scrimmages and organized events, including those sports, tournaments, clinics, scrimmages and organized events held outdoors and indoors as well as at Indoor Recreation Establishments as that term is defined in Executive Order No. 2020-023.

For any high school, youth, amateur and/or recreational sports, tournaments, scrimmages and organized events held indoors, including those held at an Indoor Recreation Establishment, the 10-person limit is inclusive of coaches, trainers and staff as well as parents, guardians and spectators.

For any high school, youth, amateur and/or recreational sports, tournaments, clinics scrimmages and organized events held outdoors, including those held at an Outdoor Recreation Establishment, the 25-person limit is inclusive of coaches, trainers and staff as well as parents, guardians and spectators.

Food Service Establishments

Individuals at food service establishments while eating or drinking shall be subject to the same existing regulations and exceptions previously in place under the Governor's Executive Orders and the Health Officer Orders of the Maryland Department of Health ("MDH") including, but not limited to, Governor's Executive Order No. 20-11-17-01, Secretary Neall's Amended Directive and Order Regarding Food Service Establishments No. MDH 2020-11-17-03, and Baltimore County Executive Orders including, but not limited to Executive Order 2020-23, and all previously issued Baltimore County Health Directives/Orders. In addition, all non-seated parties, must wear a face covering when moving in or about a restaurant or bar premises.

Patrons are required to be seated to be served, and food service establishments may not use a self-service buffet. However, additional guidance has been provided by the State Health Department allowing a buffet-style line or station to be used if employees are serving the food. Food may be served in a buffet-style line or station (also called "cafeteria-style") when:

- Food is served directly by the employee;
- A procedure is in place to ensure customers in line maintain six feet of distance and wear face coverings;
- A plexiglass or other air-impermeable barrier is provided to protect the serving employee(s) from the customers if 6 foot social distancing cannot be maintained; and
- Food is taken immediately to a table to be eaten.

Consumption of food and beverages is only permitted at seated tables. The current State Health Directive, MDH 2020-11-17-03, requires customers to be seated at least six feet away from each other, “except for households or a group seated together.” Therefore, even if obtaining food from an employee-staffed buffet, customers may not group at tables with others who were not associated with each other upon arrival at the food service establishment.

For food service establishments with indoor booth seating, the social distance of 6 feet must be maintained by closing every other booth. For food service establishments with outdoor booth seating, as an alternative to closing every other booth, a plexiglass or other air-impermeable shield may be used to separate adjacent booths from each other in order to satisfy the social distancing requirement, so long as the plexiglass or other air-impermeable shield is sufficient to prevent persons in adjacent booths from any physical contact while either seated or standing (i.e., a height of at least six (6) feet from the floor to the top of the shield). A mesh or otherwise permeable barrier cannot be used.

Individuals at food service establishments, when in an indoor seating area or in an outdoor seating area as those terms are defined in Executive Order No. 2020-023, shall wear face coverings so that the face covering fully covers the nose and mouth and is secured to the head when not engaging in the physical act of eating or drinking.³

All staff and employees at food service establishments shall wear face coverings while working so that the face covering fully covers the nose and mouth and is secured to the head.

³ This is the same exception that is provided in Executive Order No. 2020-023, namely that face coverings are not required “while consuming food or beverages.” The same exception is provided in the Governor’s Executive Order No. 20-11-17-01. The only difference in requirements between the Governor’s Executive Order and the local order is that the County Health Directive and Order has the same face covering requirements for *indoor and outdoor* seating areas of food service establishments; the current Governor’s Executive Order only requires face coverings in outdoor seating areas when unable to consistently maintain at least six feet of distance from individuals who are not members of the same household. However, the more restrictive local requirement applies.

Because the exception to the general face covering requirement is provided to enable eating and drinking, customers of food service establishments are expected to wear face coverings when they are not eating or drinking. For example: when customers are ordering food and beverages, and waiting for them to arrive, face coverings should be worn; and when dining is completed, even if customers do not immediately leave their seats, face coverings should again be worn. This is similar to the face covering requirements in other workplaces and places of public assembly, providing for exceptions only as needed for safety or to perform necessary tasks, and helps protect staff and employees as well as customers.

Indoor Recreation Establishments

In Indoor Recreation Establishments, as that term is defined in Executive Order 2020-023, face coverings shall be worn by staff, employees and customers at all times so that the face covering fully covers the nose and mouth and is secured to the head when not engaging in the physical act of eating or drinking.

Cigar and Hookah Lounges

For cigar and hookah lounges, smoking sections are hereby closed. Food and beverages shall not be served or consumed on the premises of any cigar or hookah lounge. Retail sections at cigar and hookah lounges may remain open, and are subject to the same requirements as Retail Establishments, as that term is defined in Baltimore County Executive Order 2020-023. Face coverings shall be worn by staff, employees and customers at all times so that the face covering fully covers the nose and mouth and is secured to the head.

Fitness Centers

For fitness centers, face coverings must be worn inside fitness centers at all times, whether a person is engaging in vigorous exercise or not. Persons shall wear face coverings so that the face covering fully covers the nose and mouth and is secured to the head when not engaging in the physical act of drinking a beverage to stay hydrated during exercise, including but not limited to water, Gatorade or similar sports drink. It is strongly encouraged that any vigorous exercise be done outside when possible.

All staff and employees shall wear face coverings while working so that the face covering fully covers the nose and mouth and is secured to the head.

For fitness centers that have indoor swimming pools, a face covering does not need to be worn if a person is physically engaged in the act of swimming. Swimming is the act of propelling oneself through the water with arms and legs. If one is standing in the water performing exercise that is not swimming – meaning that a face covering would need to be worn while performing such exercise.

Recreation and Parks Operations

In addition, OOL seeks to provide clarification as to operations involving the County's Department of Recreation and Parks ("Department"). Effective November 17, 2020, the following guidelines are applicable to adult and youth activities:

- There will be deployment of Social Distance Ambassadors to parks to assist as necessary.
- Outdoor Groups must be less than 25 people in size and appropriate social distancing must be practiced.

- There must be appropriate use of PPE by park users, including, but not limited to, the use of face coverings.
- No games or scrimmages will be allowed.
- All pavilion reservations, outdoor events, leagues and tournaments are cancelled.
- All indoor activities, programs and events are cancelled.
- Licensed Day Care and Fall Learning Youth Clubs can continue to operate at this time.
- Outdoor restroom facilities will be modified in line with facility needs.
- Portable restrooms will remain closed.
- Virtual Recreation programming is authorized to operate.
- Playgrounds remain open at this time.
- Outdoor Basketball courts remain open at this time.
- Outdoor tennis courts remain open at this time.
- Dog Parks remain open at this time.
- Skate Parks remain open at this time.