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Twenty-Seventh Modification: State of Emergency Declaration

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- First Revision to the Twenty-Seventh Modification of the Declaration of a State of Emergency for the Initiatives (<https://governor.delaware.gov/initiatives/>)

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Updated: December 10, 2020

ALL ACTIVE RESTRICTIONS FOR DELAWAREANS AND VISITORS UNDER THE STATE OF EMERGENCY DUE TO A PUBLIC HEALTH THREAT

A. Powers of Delaware Emergency Management Agency (DEMA) and Delaware Division of Public Health (DPH)

1. All departments and agencies of the State of Delaware shall assist in response and recovery activities, as directed by and in coordination with the Delaware Emergency Management Agency ("DEMA"), in consultation with the Secretary of the Department of Safety and Homeland Security ("DSHS"), necessary in those areas affected by the COVID-19. Further, DEMA is authorized to enact the Delaware Emergency Operations Plan.
2. DEMA and Delaware Division of Public Health ("DPH") are authorized to cancel gatherings should it be deemed necessary for public health reasons.
3. The Delaware National Guard shall take precautionary or responsive actions directed by the Director of DEMA, in consultation with the Secretary of DSHS, upon request by local authorities.
4. Nothing in this Order prevents DEMA from issuing, requesting, and enforcing isolation and quarantine orders pursuant to 20 Del. C. § 3136 or DPH from issuing and enforcing isolation and quarantine orders pursuant to 16 Del. C. § 505.
5. The Public Health Authority is hereby authorized to conduct inspections, as it deems necessary, of any business operating during the COVID-19 State of Emergency to determine if the business is in compliance with the COVID-19 State of Emergency declaration, plans approved pursuant to this or prior Modifications, and Delaware law, in an effort to prevent, reduce the spread of, and suppress COVID-19. Refusal to admit the regulatory authority and provide reasonable access to the facility may result in the immediate closure of the business until an inspection is completed or the COVID-19 State of Emergency has ended. The Public Health Authority is further authorized to enforce the requirements found in the COVID-19 State of Emergency declaration, the Phased Reopen Plan, individual plans approved by government authorities, or other applicable State of Delaware guidance. The Public Health Authority is authorized to impose occupancy and other restrictions on any business that it finds to be non-compliant. The Secretary of the Department of Health and Social Services ("DHSS") shall issue an order further defining the enforcement of this Order. Any state agencies with primary regulatory authority over such entities and the Secretary of the Department of Safety and Homeland Security shall provide resources as requested to assist in the enforcement of this Order.
6. Pursuant to the authority provided in Title 20, Chapter 31 of the Delaware Code, DPH, in consultation with DEMA and the Secretary of DSHS, shall consider responsive actions with respect to facility closures, isolation and quarantine measures, including quarantine of individuals or groups of individuals, and such other measures as they deem necessary to protect the health and safety of the public. DPH is authorized to purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents, health care supplies or medical supplies.
7. The Public Health Authority is authorized to make, amend and rescind orders, rules and regulations under Title 16 necessary for emergency management purposes.
8. The Public Health Authority is authorized to:
 - i. Suspend all state-required deadlines and timetables for performance of facility and agency licensure activities as the Public Health Authority deems necessary; and
 - ii. Suspend any regulatory requirement found in Title 16 of the Delaware Administrative Code that the Public Health Authority deems an impediment to staffing facilities and agencies during the pendency of the emergency; and
 - iii. Suspend any regulatory requirements related to the provision of in-home medical care and personal services under Title 16 of the Delaware Administrative Code as the Public Health Authority deems necessary.
9. The Public Health Authority and the Public Safety Authority are hereby authorized to request advice or assistance from any private person, firm or corporation or employee or agent of such person, firm or corporation on behalf of the state, and to determine that any such private person, firm or corporation or employee or agent of such person, firm or corporation, who renders advice or assistance as requested by the Public Health Authority or Public Safety Authority shall be considered a public employee under §§ 4001-4002 of Title 10.

B. General Regulations

This Order and any emergency rules or regulations effected therefrom remain effective until the termination of the State of Emergency, except as may be rescinded, superseded, amended, or revised by additional orders.

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C. Beaches

1. At a minimum, towns must:
 - i. Clean bathrooms, boardwalk railings, and benches multiple times per day;
 - ii. Demarcate (using tape, cones, etc.) six (6) foot intervals in front of certain retailers on boardwalks where lines are likely to form, at entrances to the beach, or any other area where congregating or waiting in lines is likely to occur; and
 - iii. Identify enforcement teams.
2. Regulations for beachgoers:
 - i. Face coverings are required on boardwalks and required on the beach if social distancing cannot be maintained.
 - ii. Members of different households must remain six (6) feet apart at all times.
 - iii. Individuals with underlying health conditions or who are over the age of sixty-five (65) are encouraged to shelter in place.
 - iv. Avoid water fountains.
3. The Delaware Secretary of the Department of Natural Resources and Environmental Control ("DNREC") is authorized to develop capacity limits for State beaches (including but not limited to Cape Henlopen, Delaware Seashore and Fenwick Island) on the number of vehicles and visitors allowed to enter the parks as well as limits on parking spots.
4. Any vehicle on the beach for the purpose of surf fishing may only be occupied by members of the same household. Vehicles on the beach for this purpose must be at least twenty (20) feet from any other vehicle. Persons on the beach for the purpose of surf fishing must follow the Minimum Social Distancing Requirements detailed as part of the State of Emergency as defined herein. All other rules and regulations regarding surf fishing shall apply.

D. Child Care

1. The authority granted to the Secretary of the Department of Services for Children, Youth, and Their Families (“DSCYF”) in Executive Order Number 38 that I issued on March 19, 2020 (subsequently incorporated into the Eighth Modification to the State of Emergency, and then transferred to the Secretary of the Department of Education (“DDOE”) in the Twenty-Third Modification) to suspend or modify the state’s child care rules and regulations prescribed by OCCL, and the authority to suspend any statute, rule or regulation of any agency of the state or political subdivision to ensure access to child care, including identifying state agency supports and staff to assist in providing sufficient access to child care, and to issue guidelines in accordance therewith, is hereby continued and fully incorporated herein.
2. In addition to the authority in paragraph 1. of this section, during the State of Emergency, the Secretary of DDOE is authorized to create stricter health and safety guidelines, as necessary, in consultation with DPH, to ensure all licensed child care homes and centers (collectively “child care”) are adhering to health and safety measures necessary to prevent the spread of COVID-19.
3. The Secretaries of DHSS, DDOE, and the Director of the Office of Management and Budget (“OMB”) shall evaluate Delaware’s Purchase of Care Childcare Subsidy Program payments (POC) and tiered reimbursement payments for child care during the State of Emergency and may establish options for the adjustment of POC payments, if necessary, and evaluate continuing enhanced reimbursements for vacant slots based upon a child care’s licensed capacity (using an average of Purchase of Care and tiered reimbursement categories), as needed.
4. Effective September 1, 2020, group sizes in child care centers may increase from fifteen (15) to twenty-five (25) for school age children (space permitting). All children and staff must follow the appropriate face covering requirements.
5. Recreational camps (usually called summer or youth camps) approved by DPH may request limited or temporary continuation of the previous camp program through the end of October 2020. Such requests should be directed to the OCCL, which shall review the requests and act as the administrator of any camps approved for continuing operation.

E. Consumer Protection

1. **EVICCTIONS.** Until the State of Emergency is terminated, and the public health emergency is rescinded, the provisions of the Delaware Code relating to residential evictions are hereby modified as follows:
 - i. Actions for summary possession may be filed with respect to any residential unit located within the State, and shall be stayed to permit the Justice of the Peace Court to determine whether the parties would benefit from participating in court supervised mediation or alternative dispute resolution, which process may include appropriate housing support services, as determined by the Delaware State Housing Authority, if requested by either party or the Court. Sheriffs, constables, court officers, and their agents shall refrain from acting to remove individuals from residential properties through the eviction process during the time this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice. With respect to any past due balance for a residential rental unit, no late fee or interest may be charged or accrue on the account for the residential unit during the COVID-19 State of Emergency. Actions filed should include supporting documents, as directed by the court and supplied by the landlord, that demonstrate that the subject property is not covered by a federal moratorium on evictions.

- ii. Any action for summary possession with respect to any residential unit located within the State that was filed before the State of Emergency for which no final judgment had been entered shall be further stayed to permit the Justice of the Peace Court to determine whether the parties would benefit from participating in court supervised mediation or alternative dispute resolution, which process may include appropriate housing support services, as determined by the Delaware State Housing Authority, if requested by either party or the Court. Sheriffs, constables, and their agents shall refrain from acting to remove individuals from residential properties through the eviction process during the time this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice. With respect to any past due balance for a residential unit, no late fee or interest may be charged or accrue on the account for the residential unit during the COVID State of Emergency.

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2. **FORECLOSURES.** Until the State of Emergency is terminated, and the public health emergency is rescinded, the provisions of the Delaware Code relating to residential mortgage foreclosures, including Subchapter XI, Chapter 49 of Title 10, are hereby modified as follows:
- i. To avoid large gatherings of persons which can cause the risk of spread of COVID-19, the requirement that sheriff sales be conducted at a physical location by virtue of execution process pursuant to 10 Del. C. §4974 is hereby suspended for ninety (90) days beginning November 23, 2020. Counties are encouraged to conduct sales electronically or to provide a video conference option for members of the public who do not wish to attend in person.
 - ii. For any residential mortgage foreclosure action commenced prior to the declaration of the state of emergency due to COVID-19, any stay of a deadline in that action pursuant to paragraphs C.2, C.3, and C.4 of the Sixth Modification is lifted, unless the court determines that a longer period is necessary in the interest of justice. Sheriffs, constables, and their agents shall refrain from acting to remove individuals from residential properties as a result of a mortgage foreclosure process by way of sheriff's sale, writ of possession, or action for ejectment during the time this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice; provided, however, a party may act to remove individuals from residential properties, subject to a residential mortgage foreclosure action, where a judgment of foreclosure was issued prior to the declaration of the COVID State of Emergency. Any actions taken pursuant to this subsection should include supporting documents, as directed by the court and supplied by the lender, that demonstrate that the subject property is not covered by a federal moratorium on foreclosures.
 - iii. Except as modified in this section, all other provisions of Chapter 49 of Title 10 of the Delaware Code remain in effect in accordance with their terms.
 - iv. Except as provided above, no provision contained in this Order shall be construed as relieving any individual of the obligation to make mortgage payments or to comply with any other obligation that an individual may have under a residential mortgage.
3. **UTILITIES.** Beginning July 1, 2020, every public utility, not for profit utility, and municipal utility that operates water, wastewater, gas, or electric utility service in Delaware shall, at a minimum, extend a four (4) month payment plan ("COVID extended payment plan") for past due accounts to customers that indicate they have been affected by the impacts of COVID-19 which may include, but is not limited to, loss of employment. Such utilities shall not apply eligibility criteria, such as installment plan history, and customers may enroll in the COVID extended payment plan with no deposit/payment. Utilities may request proof of COVID impact, such proof to be the least minimal necessary to show the customer has been impact by COVID-19.

F. Education

1. SCHOOL REOPENING. Local Education Agencies (“LEAs”), private, and parochial schools will follow the school reopening instructions provided by the DDOE on its website at <https://de.gov/schoolreopening> (<https://de.gov/schoolreopening>).
2. SCHOOL NOTIFICATION FOR COVID-19 POSITIVE CASES: Effective immediately, all LEAs, private and parochial schools must notify parents/guardians, school personnel, and students aged eighteen (18) and up if the school becomes aware that a person who tested positive was in the school building at the same time as students. The manner and content of the notification is up to each school and must be consistent with applicable state and federal law. DPH will work with schools on their responses to reports of positive test results and on ensuring that any descriptions of those actions in their letters are accurate.
(<http://delaware.gov>)
3. FACE COVERINGS IN SCHOOLS FOR CHILDREN KINDERGARTEN TO 18 YEARS OF AGE.
 - i. Students in Kindergarten and above shall wear face coverings while inside child care homes and centers and at schools at all times except for meals, naps, or when doing so would inhibit the child’s health. If outside at a child care home or center or at a school, face coverings shall be worn by students (Kindergarten and above) if social distancing cannot be maintained.
 - ii. Any child under two (2) years of age must not wear a face covering because of the risk of suffocation. Children two (2) years of age through pre-Kindergarten are strongly encouraged to wear face coverings if they can do so reliably in compliance with Centers for Disease Control and Prevention (“CDC”) guidance on How to Wear Cloth Face Coverings while inside child care homes and centers or elementary schools at all times, except for meals, naps, or when doing so would inhibit the child’s health, and outside, if social distancing cannot be maintained.
 - iii. Child care homes and centers and schools shall develop written procedures to respond to individual requests for reasonable accommodations or modifications to their face covering policy to allow a child or student who cannot wear a face covering because of their health or a disability to participate in, or benefit from, the programs offered or services that are provided by the child care home or center or school.
 1. Caregivers at child care homes and centers, and educators at schools, must supervise use of face coverings by children to avoid misuse and monitor compliance.
4. IN PERSON EDUCATION
 - i. Child care homes and centers and schools must provide students and staff with access to handwashing facilities and supplies and hand sanitizer. Students and staff must be allowed time to wash hands frequently throughout the day.
 - ii. In schools, desks must be arranged so they are facing the same direction. If tables are used, students must be seated a minimum of three (3) feet apart with face coverings, or the recommended six (6) feet apart for social distancing and facing the same direction. For child care homes and centers facilitating remote learning for school age children, or who offer kindergarten, the same social distancing requirements shall be met, taking into account that younger school age children should be engaged in age-appropriate activities in a safe way.
 - iii. Child care homes and centers and schools must discontinue off-site field trips.
 - iv. Health status and monitoring: Students and staff must stay home if they are exhibiting any symptoms of COVID-19, have been confirmed to have COVID-19, or have been required by DPH to isolate or quarantine.
 - v. Schools and child cares must identify an area or room separated from others where a student or staff member exhibiting any symptoms of COVID-19 can wait until he/she can be picked up, which should be arranged as soon as possible, or transported to a medical facility if necessary.

- vi. Facilities: Schools and child cares must ensure enhanced cleaning and disinfection of high-touch surfaces (stair railings, doorknobs, bathrooms, etc.), cleaning between every fifteen (15) minutes to two (2) hours using EPA-approved cleaning and disinfecting solutions.

5. LEAs shall direct entities providing bus service to and from school to do the following:

- i. Capacity must be limited by the number of students that can be seated three (3) or more feet apart on the school bus with face coverings (one student per row in staggered fashion, if possible). Students from the same family may sit together in one row, however. All staff and any students Kindergarten and above must wear face coverings. LEAs shall provide a reasonable accommodation for students who are unable to wear a face covering on a bus due to health reasons.

- 1. High-touch surfaces on buses (handrails, seat tops, particularly in first few rows) must be cleaned between every bus run with an EPA-approved solution.

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6. Student attendance:

- i. The minimum annual school hours requirement of 14 Del. C. § 1049(a)(1), 14 Del. C. §§ 505(b) and 512, and 14 Del. Admin. Code 615 School Attendance shall be suspended for the 2020-21 academic year. LEAs (school districts and charter schools) will develop school schedules according to their model chosen for hybrid or remote learning. Each LEA must develop an attendance policy that defines and describes the LEA's rules concerning attendance for students K-12.

- 1. LEAs shall provide on average three and a half (3.5) to five (5) hours daily of synchronous (delivered same time) or asynchronous (not delivered same time) programming. Attendance may be based on a combination of participation in, completion and/or submission of assignments as determined by the LEA.
- 2. LEAs shall continue to enter attendance in eSchool.
- 3. For the 2020-21 academic year, LEAs may amend their calendars without complying with the thirty- (30) day public notice requirement of 14 Del. C. § 1049(a)(1). For the 2020-21 academic year, LEAs may amend their calendars with a seven- (7) day public notice requirement. Any amended plan must provide for the completion of one-hundred and eighty-eight (188) teacher days and be immediately provided to the DDOE.
- 4. Schools' schedules must allow for the delivery of Delaware State Content Standards for students K-12.
- 5. LEAs shall develop a process to provide outreach and support when families are not participating.
- 6. Each LEA shall post the attendance policy on its website and notify a parent, guardian, or relative caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian, or relative caregiver upon request.
- 7. Final attendance policies must be in place before the beginning of the school year and must be submitted to the Secretary of Education no later than October 2, 2020.

7. Educator Support:

- i. The definition of Capstone Clinical Residency found in 14 Del. Admin. Code § 290.1 shall be modified to allow Programs to adjust the schedule and format of the Clinical Capstone Residency to comply with embedded LEA vacation schedules, holidays, and unforeseen official school closures during the State of Emergency and six months after the State of Emergency is lifted.
- ii. The content-readiness exam or performance assessment requirements of 14 Del. C. § 1210(a); 14 Del. Admin. Code §§ 1510.3.3.2 and 1510.7.1; 14 Del. C. §§ 1262(c)(3) and 1262(c)(4); and 14 Del. C. § 1280(d) and 14 Del. Admin. Code §§ 290.3.4.1.1 and 290.3.4.1.2.1 shall be suspended until six (6) months after the State of Emergency is lifted.
- iii. Educators holding a continuing license with a renewal date in 2020 who have not completed the 90-hour minimum professional development requirement of 14 Del. C. § 1212 shall have six months from the date the State of Emergency is lifted to complete the requirement.

- iv. The requirement under 14 Del. C. §§ 1218(r) and 1218A(b) and 14 Del. Admin. Code § 1514.7.1.1 that communications be sent by certified mail shall be suspended.
- v. The Praxis Subject Assessment or content area requirements of 14 Del. C. § 1220(a) and 14 Del. Admin. Code §§ 1554-1562 shall be suspended until six (6) months after the State of Emergency is lifted.
- vi. The Candidate Evaluations required as part of the Educator Preparation Programs under 14 Del. Admin. Code § 290.3.5.1 may be completed through in-person, virtual and/or a combination of in-person and virtual observation during the State of Emergency and six (6) months after the State of Emergency is lifted.
- vii. The requirement of 14 Del. C. § 1262(a)(2) to earn passing scores on an approved content-readiness exam prior to entering an Alternative Route to Certification (ARTC) program shall be suspended until six months after the State of Emergency is lifted.
- viii. The provisions of 14 Del. C. § 1262(c)(1)-(4) and 14 Del. Admin. Code §§ 290.1, 290.8.2.4, and 290.9.1.2 requiring an ARTC program participant to complete the ARTC program, attain two satisfactory summative evaluations, pass a content readiness exam and an approved performance assessment within the first two years of teaching shall be suspended for the 2019-20 academic year, such that the 2019-2020 academic year shall not count as one of the first two years of teaching and shall remain suspended until six months after the State of Emergency is lifted.

8. Educator Licensing:

- i. Educators holding a continuing license with a renewal date in 2020 who have not completed the ninety (90) hour minimum professional development requirement of 14 Del. C. § 1212 shall have until June 30, 2021 to complete the requirement with a request from the LEA.
- ii. DPAS II shall be suspended until November 1, 2020. In the interim, the Department of Education and educators shall devise an alternate mechanism for tracking student growth, evaluating teacher performance, and monitoring student achievement for the remainder of the 2020-21 school year, given that this school year will be unlike previous years, and evaluations will need to account for the remote and hybrid learning environments.
- iii. The creation of new alternative evaluation systems identified in 14 Del. C. § 1270(f) shall be suspended for the 2020-21 academic year.

9. SEED and Inspire:

- i. The requirement of 14 Del. C. § 3404A, Delaware Student Excellence Equals Degree Act (SEED), that a student receiving SEED financial assistance earn a minimum of twenty-four (24) credit hours in each academic year shall be suspended until six (6) months after the State of Emergency is lifted.
- ii. The requirement of 14 Del. C. § 3414A Delaware State Inspire Scholarship Program (Inspire), that a student receiving Inspire financial assistance earn a minimum of twenty-four (24) credit hours and complete ten (10) hours of community service in each academic year shall be suspended until six (6) months after the State of Emergency is lifted.

10. Substitute teachers: The forty-five (45) day work requirement for continuous employment found in 14 Del. Admin. Code § 745 and impacting substitute teachers and persons who have participated in a student teaching placement and who have fulfilled the requirements of 14 DE Admin. Code § 746 shall be suspended for the 2020-21 academic year, thus Criminal Background Checks for substitute teachers set to expire pursuant to 14 Del. Admin. Code § 745.5 shall be valid for the 2020-21 academic year.

11. Student Support:

- i. The vision and hearing screening, postural and gait screening, and lead screening requirements of 14 Del Admin. C. § 815.3 Health Examinations and Screenings shall be suspended during the State of Emergency. Schools should make every effort to reinstate and complete screenings for § 3.1.1 (vision and hearing screening for grades 2, 4, 7, and 9 or 10), § 3.1.1.1 (driver's education students), and § 3.2.1 (postural and gait screening for grades 5-9) during the 2020-2021 school year upon the lifting of the State of Emergency.

- ii. Lead screening for children entering kindergarten or first grade shall be required before the 2021-2022 school year in accordance with, 14 Del Admin. C. § 815.3.3.1.
- iii. The deadline to submit a counseling plan by August 15, per 14 Del. Admin. C. § 545.3, is extended to on or before September 15, 2020.

12. Educational Programs for English Learners: The initial English Learner screening requirement of 14 Del. Admin. Code § 920.2.2 shall be suspended for the 2020-21 academic year. For the 2020-21 academic year, any student for whom a language other than English is reported on the home language survey, the school or district shall to the extent practicable follow Delaware's statewide entrance criteria as outlined in Delaware's approved ESSA Plan and further described in Delaware's English Learner Guidebook. An initial in-person screening or WIDA Remote Screening assessment of English language proficiency shall be conducted as searched as practicable, but not later than forty-five (45) school days after enrollment and shall be conducted by qualified personnel trained in the administration of the assessment instrument. Upon return to in-person instruction, any student screened with the WIDA Remote Screening assessment of English language proficiency must complete the in-person screening within twenty-five (25) days as outlined in Delaware's approved ESSA plan.
13. Chemical Inventory: The requirement of 14 Del. Admin. Code § 885.5.1 that each school district and charter school prepare a Chemical Inventory for each of its schools by September 15 of each year shall be suspended. Each school district and charter school must prepare a Chemical Inventory for each of its school by November 15, 2020.
14. The requirements of 14 Del. C. § 1305(e)(1-3) mandating 10-month employees work for a total of 188 full work days, including 180 days or equivalent hours devoted to actual school sessions for pupils, two days devoted to start-up/closing, and six days devoted solely to professional development, shall be suspended so long as all public and charter schools educators continue to offer remote learning through the date indicated on their respective remote learning plans.
15. Transcripts: Any regulation, policy, or statute mandating an applicant, educator, or employee submit official school transcripts for any purpose, including a salary increment, license or certificate application, or job application shall be suspended until 90 days after the State of Emergency is lifted.
16. Transportation
 - i. The requirement that districts conduct four hours of in-service training for school bus drivers by June 30 pursuant 14 Admin. Code § 1150.7.5 shall be suspended, extended to ninety days after the State of Emergency is lifted, and expanded to include remote training of school bus drivers. The district must share with DDOE the material provided and certify each individual has completed the distance learning material to receive funding.
 - ii. The contract allowance provisions of 14 Del. Admin. Code § 1150.17.6 mandating school bus contractor and Local Education District payments for Emergency Days shall be suspended.

G. Elections

1. All elections for school board members in any Delaware school district scheduled to be conducted on May 12, 2020 pursuant to 14 Del. C. § 1072(c) are hereby further rescheduled for July 21, 2020. The terms of current school board members currently ending on June 30, 2020 are hereby extended to and through July 31, 2020. The term of any board member elected in the July 21, 2020 election shall commence on August 1, 2020, and the end of such term shall be governed by 14 Del. C. § 1052(d) and shall not be affected by

this Modification. Districts are required to implement social distancing requirements, require all persons aged Kindergarten and older to wear a face covering at all times.

2. Municipal elections scheduled to be conducted pursuant to a municipality's charter or municipal code after the date of this Order but prior to the rescission of the State of Emergency may be conducted at the discretion of the municipality. Municipalities conducting such elections are required to implement social distancing requirements, to enforce the requirement that all persons aged Kindergarten and older wear a face covering at all times. Municipalities are also encouraged to mail absentee ballot applications to all eligible voters in the municipality and to reduce the number of physical polling places on election day. Municipalities may also consider extending voting hours to reduce crowd size at the polling places.

(<http://delaware.gov>)



H. Face Coverings

1. Definitions. For purposes of this Twenty-Seventh Modification to the COVID-19 State of Emergency declaration, the following terms shall have the meaning described herein:
 - i. "Face covering" means a cloth, paper, or disposable face covering that fully covers the nose and the mouth. The face covering should be comfortable, so that the wearer can breathe comfortably through the nose and does not have to adjust it frequently, so as to avoid touching the face. Face coverings with valves should be avoided, per CDC guidance. A "medical-grade mask" means an N95, KN95, surgical, or other mask that would be appropriate for a health care setting. Wearing a medical-grade mask satisfies any requirement in this Order to wear a face covering, but all Delawareans are urged to reserve medical-grade masks for use by health care workers and first responders.
 - ii. "Business or indoor space open to the public" means any indoor spaces, whether publicly owned or privately owned, where the public has access by right or invitation, express or implied, whether by payment of money or not, or that is open to employees, contractors, or volunteers. In addition to the public areas of businesses, such spaces may include, but are not limited to, building lobbies or common spaces, elevators, hallways, bathrooms, and buildings or meeting rooms where people gather for business, social, civic, cultural or religious purposes, and including when waiting outside to enter the business or while traveling by taxi, bus, train, car service, ride-sharing or similar service.
 - iii. "Outdoor space open to the public" includes boardwalks, parks, golf courses, and beaches.
 - iv. "Vigorous physical activity"—sometimes called high-intensity exercise—means a physical activity done with a large amount of effort, resulting in a substantially higher heart rate and rapid breathing. Your exertion would be considered hard to extremely hard, making it difficult to speak in full sentences. Activities like running, cycling, and singles tennis are usually classified as vigorous. Vigorous physical activity does not include weightlifting.
2. Obligations for Individuals to Wear Face Coverings.
 - i. While visiting a business, indoor or outdoor space open to the public, individuals are required to wear a face covering and are required to comply with the following:
 1. Any child under the age of two (2) must not wear a face covering because of the risk of suffocation. While the use of face coverings for those between the age of two (2) and pre-Kindergarten is strongly encouraged if they can do so reliably in compliance with CDC guidance on How to Wear Cloth Face Coverings, this Order does not require that any child wear a face covering before they are in Kindergarten. Any child enrolled in Kindergarten and up

to eighteen (18) years of age shall wear a face covering following the rules and requirements for adults contained in the COVID-19 State of Emergency and its modifications except when doing so would inhibit the individual's health. Parents and caregivers must supervise use of face coverings by children to avoid misuse.

2. Face coverings are not required when eating or drinking, or when seated at a table to eat or drink. Face coverings are required to be worn at all other times in food and drink establishments, such as when walking to and from tables. Individuals are strongly encouraged to wear a face covering at food and drink establishments while not eating or drinking, and especially when waitstaff are at the table.

3. Face coverings are not required when engaged in any activity that makes wearing a face covering or face shield not feasible, such as swimming, dental appointments or personal care services where the face must be exposed.

4. When individuals are speaking, reading, or singing to an audience, including through a camera in a location where any other person shares the space, face coverings or face shields must be worn or one of the following precautions must be taken: the speaker, reader, or singer shall face away from the audience, maintain at least thirteen (13) feet of distance between themselves and the audience and any other person in the space, or stand behind a physical barrier or partition, such as a sneeze guard. The speaker, reader, or singer must put the face covering back on immediately after speaking, reading or singing.

5. A face covering is not required when a person is in a personal office (a single room) when others outside of that person's household are not present. A face covering is required in offices or common spaces, such as elevators, hallways, bathrooms, and meeting rooms where another person or persons who are not members of the same household are present, irrespective of physical distance.

6. Face coverings are not required in an outdoor space open to the public when an individual can maintain at least six (6) feet of social distance between members of separate households, unless otherwise specified.

7. Face coverings are required at all times while indoors at an exercise facility. Face coverings are not required at outdoor exercise facilities when engaged in vigorous physical activity.

8. Individuals aged Kindergarten and up must wear a face covering while in attendance at any private indoor gathering or event with members of other households, irrespective of physical distance.

- ii. Individuals who have a medical condition that makes it hard to breathe or a disability that prevents the individual from wearing a face covering can request a reasonable accommodation from the business, school, or individuals responsible for indoor/outdoor spaces open to the public to enable full and equal access to services, transportation, and facilities open to the public. A requested accommodation that would endanger any third party or create any likelihood of further infection is per se unreasonable and therefore not required. A reasonable accommodation does not include simply allowing a customer inside without a face covering. Reasonable accommodations could include curbside pickup, delivery, or pick up by appointment.

3. Obligations for Businesses and Individuals Responsible for Indoor and Outdoor Spaces Open to the Public.

- i. Businesses and individuals responsible for indoor and outdoor spaces open to the public shall require employees, contractors, and volunteers to wear a face covering in compliance with this Modification, except as follows:

1. Face coverings are not required when at or in a location where the employee, contractor or volunteer is alone and does not have a job that requires interacting with others.
2. Face coverings are not required when eating and drinking, or when seated at a table to eat or drink. Face coverings are required to be worn at all other times in food and drink establishments, such as when walking to and from tables. Individuals are strongly encouraged

to wear a face covering at food and drink establishments while not eating or drinking, and especially when waitstaff are at the table.

ii. Businesses and individuals responsible for indoor and outdoor spaces open to the public are required to:

1. Require customers and visitors to businesses, indoor or outdoor spaces open to the public to wear face coverings.
2. Provide face coverings for employees, contractors, and volunteers.
3. Provide accommodations for employees, contractors, customers and visitors if such accommodations are required by state or federal disabilities, labor, or public accommodations laws, including the Americans with Disabilities Act (ADA).
4. Have written documentation, such as a doctor's note, supporting accommodations for any employee, contractor, or volunteer not wearing a face covering. This includes having written documentation for any employees wearing a face shield in place of, but not in addition to, a face covering.
5. Remind customers or visitors to wear face coverings by (a) posting the requirement at the entrance of the business, and (b) posting clearly visible signs inside the business to remind customers or visitors of the requirement to wear the face covering at all times when in the business. All food and drink establishments must also place a sign on each table asking customers to wear a face covering at food and drink establishments (a) while not eating or drinking, (b) when restaurant staff are at the table, and (c) at all other times when not seated at a table.
6. Post signage outlining alternatives to entering the business, indoor or outdoor space open to the public without a face covering (i.e. curbside pickup, in-person appointment or appointment by video or phone). Signage must include contact information for customers in need of alternative accommodation.

iii. Businesses and individuals responsible for indoor and outdoor spaces open to the public are encouraged to:

1. Provide, at no cost, disposable face coverings for customers and visitors who do not have one.
2. Post required face covering signs in languages that are commonly spoken by customers and visitors.
3. Educate employees on how to safely work and communicate with people who cannot wear face coverings.

iv. If any individual, who is not an employee, contractor or volunteer, declines to wear a face covering at a business or indoor or outdoor space open to the public due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition. The business or indoor or outdoor space operator may need to work with that individual to seek a reasonable accommodation. If the business or indoor or outdoor space operator is providing medication, medical supplies, food, or other essential product or service, it must, when possible, provide a reasonable accommodation to access services, such as curbside pick-up, delivery, or an appointment by phone or video. A requested accommodation that would endanger any third party or create any likelihood of further infection is per se unreasonable and therefore not required. A reasonable accommodation does not include simply allowing a customer inside without a face covering. Examples of reasonable accommodations include delivery, curbside pickup or visit by appointment.

I. FOIA — Public Records and Public Meetings

1. All public meetings of public bodies governed by 29 Del. C. §§10001 et seq. (including boards, commissions, task forces, and any other similar public body) may be conducted in person in public buildings, provided that (1) the total number of individuals permitted in a room at one time shall not exceed thirty percent (30%) of stated fire occupancy requirements; (2) a six (6) foot radius around individuals is maintained, and (3) attendees wear face coverings. Public bodies are encouraged to conduct meetings electronically either by means of telephone conference call or video conference call. Any in-person meeting must also provide a telephone or video conference option for any member of the public body or the public who does not wish to attend in person.

J. Insurance

1. Beginning July 1, 2020, every insurer shall provide a ninety (90)-day payment plan for past due premiums to individual policyholders who demonstrate a loss of job/termination of employment due to the COVID-19 State of Emergency, or, if the policyholder is a business, the business demonstrates it was required to close or significantly reduce its business operations due to the COVID-19 State of Emergency. Repayment of the unpaid premium shall, at a minimum, be amortized over said 90-day period in up to three (3) equal installments, except that an insurer may permit a longer repayment period to assist policyholders.
2. This Order is intended to grant policyholders an extension of time for the payment of premium which was past due between March 25, 2020 through July 1, 2020 without penalty or interest. Except as required herein, the provisions in this Order are not intended to vary the terms and conditions of an insurance policy. No provision contained in this Order is intended to be considered a forgiveness of premium due by a policyholder under an insurance policy prior to-, post-, or during the pendency of this State of Emergency. Failure to make payment under the payment plan may be the basis for cancellation or nonrenewal of a policy. Policyholders are encouraged to contact their insurer regarding payment of past-due premium. Pursuant to 20 Del. C. § 3116(a)(1), I delegate to the Insurance Commissioner of the State of Delaware the authority to issue guidance to insurers and policyholders regarding the content of this Order.

K. Long Term Care and Older Adults

1. Facilities serving older adults, including skilled nursing facilities, assisted living facilities, hospice providers, and rehabilitation facilities with older patients must:
 - i. Screen and restrict access by those who meet the following: 1) signs or symptoms of a respiratory infection such as cough, fever, shortness of breath or sore throat; 2) in the last 14 days had contact with someone with a confirmed diagnosis of COVID-19, or 3) are ill with respiratory illness.

- ii. All individuals permitted to enter the facility must wash hands upon entry; if soap and water are not available, alcohol-based sanitizer may be used.
- iii. Make online methods of face-to face communication and phone calls available.
- iv. Facility staff must be restricted from international travel and should be monitored if they have travelled out of the country in the last fourteen (14) days.
- v. Staff must be monitored if they have been in contact with someone who is under investigation for COVID-19.
- vi. Staff must be monitored if they are showing any signs of respiratory infection such as fever, cough or sore throat.
- vii. Require any staff who has these signs or symptoms to not report to work. Any staff that develop these signs or symptoms on the job must immediately stop working, put on a face covering, and self-isolate at home.
- viii. Require staff who develop these signs and symptoms to inform the infection preventionist and contact their primary care doctor, as well as DPH at 1-866-408-1899 for next steps.
- ix. Nursing homes must ensure availability of alcohol-based hand sanitizers, tissues, no-touch receptacles for disposal, and face coverings at entrances, waiting rooms, and resident check-ins.
- x. Display signage for vigilant infection prevention.
- xi. Properly clean, disinfect, and limit sharing of medical equipment between residents and areas of the facility.

L. Public Health

1. State buildings and essential businesses that the Public Health Authority deems high-risk shall screen every employee, visitor and member of the public upon entering. The Public Health Authority shall develop and publicly post the screening tool to be used by high-risk essential businesses.
2. All state buildings and essential businesses shall display signage developed by the Public Health Authority that cautions individuals experiencing symptoms of COVID-19 not to enter the premises. This requirement shall not apply to hospitals that are subject to the requirements of EMTALA.
3. All hospitals, nursing and residential facilities, ambulatory health care services, home health agencies, and personal assistance service agencies in Delaware, as categorized by the Division of Small Business, shall comply with the Public Health Authority's guidance for the optimal use of Personal Protective Equipment.
4. The requirement that long term care facilities provide documentation to the Division of Health Care Quality as to the of the amount of direct care time that was provided in an emergency by a Director of Nursing, Assistant Director of Nursing, or registered nurse assessment coordinator as required in 16 Del. C. § 1161(e) is hereby suspended.
5. Long term care facilities must continue to provide 3.28 hours of direct care per resident per day. However, the staffing ratios required in 16 Del. C. § 1162 are hereby suspended.
6. The training requirements found in Section 3215 of Title 16 of the Delaware Administrative Code are hereby suspended. Previously untrained feeding assistants may undergo on-site training for the pendency of the state of emergency.
7. All COVID-19 testing shall be made available to those persons who meet criteria for such testing as established and modified from time to time by DPH. All health care providers, facilities and entities that

decide to offer testing shall make that testing available to people meeting testing criteria without regard to that person's ability to pay, type of health insurance, or participation in any particular provider network.

8. All health care providers who test for COVID-19 shall comply with the Public Health Authority's guidance for the use of such tests. Further, all such providers must provide each patient tested with educational materials developed by the Public Health Authority.
9. The Public Health Authority is hereby authorized to issue orders, as it deems necessary, to monitor, treat, prevent, reduce the spread of, and suppress COVID-19 in and around all facilities and agencies licensed by the Division of Health Care Quality under Title 16.
10. Nursing facilities, assisted living facilities, rest residential facilities, and intermediate care facilities for persons with intellectual disabilities licensed under Title 16, Chapter 11 shall immediately ensure that they are in full compliance with Public Health Authority guidance related to COVID-19. Such facilities shall check DPH guidance daily to ensure that the facilities are complying with the most current guidance and shall adjust their policies, procedures, and protocols accordingly.
11. All nursing facilities, assisted living facilities, rest residential facilities, and intermediate care facilities for persons with intellectual disabilities shall immediately implement, to the best of their ability, the following personnel practices:
 - i. Establish a cohort of staff who are assigned to care for residents with known or suspected COVID-19.
 - ii. Designate a room, unit, or floor of the facility as a separate observation area where newly admitted and readmitted residents not known to be infected with COVID-19 are kept for 14 days on appropriate infection precautions per guidance from the Public Health Authority while being observed every shift for signs and symptoms of COVID-19.
 - iii. Designate a room, unit, or floor of the facility to care for residents with known or suspected COVID-19.
12. Returning residents to their nursing facility, assisted living facility, rest residential facility, or intermediate care facility for persons with intellectual disabilities, their home, remains a priority. For facility residents admitted to or seen at a hospital for COVID-19, the residents shall be allowed to return to the facility as long as the facility can follow the approved CDC recommendations for transmission-based precautions. If the residents must temporarily go to other facilities, such as an alternate care site, every effort must be made by the receiving and original facilities to transfer the residents back to their original facility as soon as possible, such as when transmission-based precautions can be discontinued if the original facility cannot effectively initiate these precautions prior. A negative COVID-19 test shall not be required prior to a resident's return to a facility.
13. Any individual who has at any time held an active license to practice medicine in any United States jurisdiction, which is now inactive, expired or lapsed, may be activated to provide healthcare services on a volunteer basis in Delaware, if (1) the individual's license was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed, (2) the individual's scope of practice will be limited to primary care services, and (3) the hospital that will use the individual's services has provided training appropriate for the tasks to be performed.
14. Any individual who has at any time held an active license or certification from any United States jurisdiction to practice as a pharmacist, respiratory therapist, physician assistant, paramedic, emergency medical technician, practical nurse, professional nurse, registered nurse, advanced practice registered nurse, or certified nursing assistant, which is now inactive, expired or lapsed, may be activated to provide healthcare services on a volunteer basis in Delaware if (1) the individual's license or certification was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed, (2) the individual's scope of practice is limited to examination, testing and treatment, and (3) the hospital that will use the individual's services has provided training appropriate for the tasks to be performed.
15. The training provided in accordance with subsections 13. and 14. above shall be at no cost to the State of Delaware.

16. An individual must be registered with the Medical Reserve Corps before they may be activated to provide healthcare services as a volunteer.
17. Activation to provide healthcare services as a volunteer shall occur when a hospital activates its crisis standard of care developed in accordance with the Crisis Standard of Care Concept of Operations approved by the Public Health Authority. The Public Health Authority must grant written approval for the health system to operationalize its crisis standard of care before paragraphs 13 - 16 of this Public Health Section goes into effect.
18. Individuals activated to provide healthcare services as a volunteer shall be considered "qualified medical personnel" for purposes of 20 Del. C. § 3129.
19. During the pendency of the State of Emergency declaration, 31 Del. C. 1101(b) shall not apply to medical assistance recipients. Contact information exchanged between the Division of Medicaid and Medical Assistance and the Public Health Authority.
20. The requirement that all payments for dental care treatments are subject to a \$3 copay for adult recipients as required in 31 Del. C. § 503(b)(2)(c) is hereby suspended. The Dental providers who treat adult Medicaid recipients shall not have their payments reduced by \$3, but shall be paid the full allowable amount by the Division of Medicaid and Medical Assistance.
21. The requirements in Chapter 93 of Title 16 are hereby suspended for acute care hospitals that seek to increase their bed capacity in order to treat COVID-19 patients, so long as any such hospital obtains approval from the Division of Public Health. Hospitals that wish to increase their bed capacity to treat COVID-19 patients must submit a plan to OEMS@delaware.gov (mailto:OEMS@delaware.gov). Plans must include a justification for increased beds, and assurances for adequate staffing, maintenance, and safety. Plans may not be implemented until approved by the Division of Public Health. Hospitals that increase bed numbers pursuant to this section must eliminate beds and return to the previously approved number of licensed beds, or seek a Certificate of Public Review, if so ordered by the Division of Public Health or upon the termination of the State of Emergency.

M. State Government

1. EMPLOYEES.
 - i. State employees shall refrain from any business travel out of state unless the Department Head (or authorized agent) deems such travel essential and issues an approval to the employee.
 - ii. In addition to a delegation of authority to issue emergency rules and regulations consistent with the COVID-19 State of Emergency declaration and Delaware law, the Department of Human Resources ("DHR") is hereby authorized to extend existing or establish new COVID-19 leave policies for employees, as needed, to respond to the COVID-19 State of Emergency until the termination of the State of Emergency or June 30, 2021, whichever occurs first.
2. PROCUREMENT. The Department of Health and Social Services ("DHSS") and the Department of Safety and Homeland Security ("DSHS") are exempted from 29 Del. C. Chap. 69 for purposes of purchasing materials necessary for responding to this public health emergency.
3. STATE INTERNAL CONTROL PROCEDURES
 - i. The Division of Accounting (DOA) in the Delaware Department of Finance shall issue Internal Control Policy Guidance for COVID-19 to all State Organizations providing for any temporary modifications to State internal control procedures for the duration of the current State of Emergency.

- ii. The provisions of Title 29, § 6103 related to frequency of banking deposits are temporarily waived, provided that State Organizations shall be required to provide an alternative plan for cash receipts deposits during the State of Emergency to the Division of Accounting by email to DOA's mailbox at Internal.Controls@delaware.gov (mailto:Internal.Controls@delaware.gov).

- 4. NATURAL RESOURCES: The Delaware Secretary of the Department of Natural Resources and Environmental Control ("DNREC") is authorized to develop emergency rules, amending the authority vested to the DNREC Secretary in Chapter 80 of Title 29 of the Delaware Code, and Title 7 of the Delaware Code, in response to COVID-19. These emergency rules should enhance the flexibility of the DNREC Secretary to respond to COVID-19 concerns that implicate the natural resources of the State of Delaware.

- 5. REGULATIONS: Notwithstanding the public comment requirements in 29 Del. C. §10118, executive branch agency regulations proposed for promulgation and comment pursuant to 29 Del. C. §§10115 that were on file with the Registrar of Regulations and remained open for public comment when the State of Emergency in Delaware was declared, or were posted after the State of Emergency was declared and remain open for public comment may, at the discretion of the applicable agency, remain open for public comment until thirty (30) days from the date the State of Emergency is rescinded. Any stay by the state agency will also stay the effective date of promulgation of the proposed regulations. The extension for the public comment on proposed regulations does not apply to the following: 1) executive branch agency permit applications; and 2) emergency regulations pursuant to 29 Del. C. §10119.
- 6. Executive Branch Agency Review of Regulations. The executive branch agency review of regulations requirement of 29 Del. C. §10407 is hereby suspended for 2020 and will commence as soon as practicable, but no later than ninety (90) days after the COVID-19 State of Emergency has ended.

N. Phase Two Reopening

INDIVIDUAL OBLIGATIONS OF SOCIAL DISTANCING, FACE COVERINGS, AND TRANSMISSION REDUCTION FROM DECEMBER 14, 2020 TO JANUARY 11, 2021:

1. While in the State of Delaware, all individuals must follow the Phase 2 Reopen Plan "General Guidance: Individuals" to promote social distancing and reduce transmission of COVID-19, available at <https://governor.delaware.gov/wp-content/uploads/sites/24/2020/06/Delaware-Economic-Reopening-PHASE-2.pdf> (<https://governor.delaware.gov/wp-content/uploads/sites/24/2020/06/Delaware-Economic-Reopening-PHASE-2.pdf>).
2. For purposes of this Twenty-Seventh Modification, "Minimum Social Distancing Requirements" means maintaining at least six (6) foot social distancing from any individual who is not a member of the same household or a caregiver to someone in that household, washing hands with soap and water for at least twenty (20) seconds as frequently as possible or using hand sanitizer composed of at least sixty percent (60%) ethanol or seventy percent (70%) isopropanol, covering coughs or sneezes with something other than one's hands (e.g., elbow, handkerchief), regularly cleaning high-touch surfaces, and not shaking hands.
3. Beginning on Monday, December 14, 2020 and ending on January 11, 2021 unless expressly extended, Delaware residents are advised and strongly encouraged to stay home as often as possible and to only leave home to go to work or school, or for necessary needs such as seeking medical care, going to the grocery store or pharmacy, or picking up food. Individuals leaving their residence for work, school or other

activities are advised and strongly encouraged to take the following steps to reduce transmission of COVID-19:

- a. Do not gather with anyone outside of your household, in their home or yours.
- b. Individuals who are not part of the same household are strongly encouraged to remain **at least six** (6) feet apart to the greatest extent possible and are encouraged to maintain greater physical distance whenever possible to avoid becoming a close contact. The CDC definition of a close contact is “someone who was within six feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period.”
- c. Individuals aged Kindergarten and up must wear a face covering while in attendance at any private indoor gathering or event with members of other households, including in their own home, irrespective of physical distance.
- d. Carry hand sanitizer and use it frequently.
- e. Wash hands using soap and water for at least twenty (20) seconds as frequently as possible.
- f. Regularly clean high-touch surfaces such as steering wheels, wallets, phones and keyboards.
- g. Individuals who are sick are urged to stay in their residences except as necessary to seek medical care. Individuals who are considering delaying medical care are encouraged to consult with a medical provider.
- h. Avoid any unnecessary travel outside the home.

4. All vulnerable individuals, including those at high risk of severe illness from COVID-19, are strongly advised to stay at home, except that routine medical care should not be postponed without consulting a medical professional. Members of households with vulnerable residents should be aware that by visiting environments where distancing is not practical, they could carry COVID-19 home. Precautions should be taken to isolate oneself from vulnerable individuals in the home.

SOCIAL GATHERINGS AND EVENTS IN PHASE 2:

1. Definitions. For purposes of this Twenty-Seventh Modification to the COVID-19 State of Emergency declaration, the term “gathering” shall mean a planned or spontaneous event, indoors or outdoors, with a small number of people participating or a large number of people in attendance, such as a community event or gathering, concert, festival, conference, parade, wedding, or sporting event. In applying the definition of “gathering,” DPH may, in its discretion, assess and weigh the following non-exclusive criteria:
 - a. Whether the event or activity is advertised to the public or offered by invitation.
 - b. Whether the event or activity occurs at a specific, date, time, and location.
 - c. Whether the event or activity has a specific beginning or ending time.
 - d. Whether the event or activity intends to draw people together for a common or particular purpose.
 - e. Whether the event or activity is designed to promote or ensure that performers, speakers, or attendees share a common experience, purpose, or goal.
2. Indoor Gatherings/Events: All gatherings or events held within any business or indoor space open to the public (including, but not limited to: food and drink establishments; commercial lodging; convention centers; houses of worship; pools; senior centers; and those in parks and recreation facilities or at facilities without a stated fire code occupancy) shall comply with the gathering requirements set forth by this Twenty-Seventh Modification. Indoor gatherings or events at any business or indoor space open to the public of up to the lesser of thirty percent (30%) stated fire occupancy or ten (10) people (e.g. weddings and receptions, graduations, birthday parties, funeral receptions, etc.) and private indoor gatherings or events of up to ten (10) persons (e.g. dinner parties, house parties, birthday parties) are permitted in Phase 2 under the following conditions:
 - a. Hosts of gatherings or events must take steps to protect vulnerable populations, including by providing materials and equipment necessary for proper hand hygiene, enforcing social distancing, and requiring the use of face coverings. All individuals aged Kindergarten and up must wear a face covering while in attendance at any private indoor gathering or event.

- b. Any business or indoor space open to the public interested in holding a gathering or event of up to fifty (50) people must have a mechanism for limiting attendance, enforcing social distancing between attendees and complying with this Modification's declarations relating to providing face coverings for employees and signage about the use of face coverings for guests.
- c. Any food service, including by catering services and their staff, must operate within the parameters prescribed for Food and Drink Establishments in this Twenty-Seventh Modification to the State of Emergency and the Phase 2 Reopen Plan. Buffet-style, family-style, and any other self-service food may reopen if the facility assigns dedicated staff to distribute food, and any customers at the buffet are socially distanced from others who are not of the same household. Self-serve beverage service may also resume in Phase 2.
- d. Concessions selling only pre-packaged food must deliver food directly to seated customers or ensure social distancing in lines. They should facilitate contactless transactions as often as possible.
- e. Individuals must wear face coverings in accordance with the requirements of this Twenty-Seventh Modification.
- f. Individuals who are not part of the same household are expected to remain at least six (6) feet apart to the greatest extent possible and are encouraged to maintain greater physical distance whenever possible.
- g. Individuals must stay home when sick.
- h. Individuals should wash their hands or use hand sanitizer regularly during the gathering or event.
 - i. Hand sanitizing stations should be supplied at any entrance or exit and at various locations within the event. Hand sanitizer must be composed of at least sixty percent (60%) ethanol or seventy percent (70%) isopropanol.
 - j. Bathrooms and high contact surfaces must be disinfected every fifteen (15) minutes to two (2) hours.
- k. Sharing microphones is prohibited. All microphones, whether they be self-standing in holders, handheld or lapel style must be sanitized after each use.
- l. The gathering or event must comply with all other applicable state, county and local laws for gatherings and events.

3. Outdoor Gatherings/Events over 50 people: Outdoor social, community, recreational, and leisure events of more than fifty (50) people ("large outdoor gatherings and events"), including but not limited to weddings, funerals, concerts, parades, festivals, conventions, fundraisers, sporting events and fairs, are hereby prohibited at all locations and venues. Hosts of large outdoor gatherings and events who wish to host a gathering or event of over fifty (50) people may apply to host a large outdoor gathering or event of up to two hundred and fifty (250) people by submitting a plan to HSPContact@delaware.gov (<mailto:HSPContact@delaware.gov>) at least seven (7) days prior to the anticipated event. Outdoor gatherings and events pose a lower risk of infection and are strongly encouraged as alternatives to indoor events. Plan approval is at the discretion of the Division of Public Health, which will consider how to prevent, reduce the spread of, and suppress COVID-19 at any gathering or event permitted under this Modification. At a minimum, the plan must meet the following requirements:

- a. The plan must show a strict adherence to guidelines in Paragraph 2 of this section: "Indoor Gatherings/Events."
- b. The plan must consider information regarding the number of people attending who are at greater risk of more serious illness after contracting COVID-19. Older adults and persons with pre-existing health conditions are thought to be at increased risk.
- c. The plan must consider information regarding the density of attendees within a confined area. Based on what is currently known about the virus, spread from person-to-person happens most frequently among close contacts, meaning individuals who are within six (6) feet of each other for ten (10) minutes or more.
- d. The plan must contain information regarding enforcement of social distancing.

- e. The plan must consider information regarding the level of transmission in the local community and the level of transmission in the areas from which attendees will travel. That information can be obtained from the two sites listed here:
 1. View Delaware data from DPH available at <https://myhealthycommunity.dhss.delaware.gov> (<https://myhealthycommunity.dhss.delaware.gov>).
 2. View national data from CDC available at <https://www.cdc.gov/covid-data-tracker/index.html> (<https://www.cdc.gov/covid-data-tracker/index.html>).
- f. The plan must consider local traffic patterns and parking capacity needs.
- g. The plan must follow all requirements for Food and Drink Establishments outlined in the Phase 2 Reopen Plan, including but not limited to maintaining social distancing between individuals from different households if food or drink is served.
- h. The gathering or event must comply with all other applicable state, county and local laws for gatherings and events.
- i. Notwithstanding the provisions of Paragraph 2, hosts of outdoor gatherings or events who received approval from the Division of Public Health to host a gathering or event prior to Monday, November 23, 2020 are hereby granted an exception to the additional occupancy restrictions that became effective in this Modification on Monday, November 23, 2020 for such gathering or event, unless notified by DPH that a plan modification is necessary for the public health and safety.

PHASE 2 BUSINESS REOPENING

1. In addition to a delegation of authority to issue emergency regulations consistent with the COVID-19 State of Emergency declaration and Delaware law, the Division of Small Business shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the list of businesses that may open in the Phase 2 Reopen Plan. In making its determinations, the Division of Small Business, in consultation with DPH, will consider how to prevent, reduce the spread of, and suppress COVID-19 in relation to any activity permitted under this Modification for any business, organization, establishment, or facility that is permitted by this Modification to be open to the general public, which directives may include, without limitation, binding requirements and/or non-binding recommendations.
2. Phase 2 Responsibilities of all Businesses. In addition to the industry-specific guidance issued to businesses in the Phase 2 Reopen Plan, including any subsequent amendments thereto, business operations for any business that is re-opening or continuing operations shall follow the coronavirus guidelines for public safety enumerated by the CDC and DPH, including:
 - a. All employees, patrons, and visitors must wear face coverings in accordance with this Twenty-Seventh Modification at all times.
 - b. Businesses must monitor patrons and visitors entering a business, in lines, and ensure social distancing throughout a business' location.
 - c. Businesses must ensure social distancing of at least six (6) feet between waiting patrons and visitors in line, both inside and outside. Signage and floor markings must be present to guide patrons and visitors in appropriately spacing while in line.
 - d. Businesses must post signs on how to stop the spread of COVID-19, hand hygiene, and how to properly wear a face covering, including:
 1. Do not enter if you have symptoms of COVID-19 or if you have been exposed to anyone who has tested positive with COVID-19 in the past fourteen (14) days;
 2. Individuals aged Kindergarten and up are required to wear a face covering;
 3. At all times, individuals who are not part of the same household are expected to remain at least six (6) feet apart to the greatest extent possible and are encouraged to maintain greater physical distance whenever possible; and
 4. Proper hand washing and frequent use of hand sanitizer is encouraged.

5. Printable signs that will help you comply with the general and industry-specific signage requirements in the Phase 2 guidance are available at <https://business.delaware.gov/wp-content/uploads/sites/118/2020/05/DSB-COVID-19-Posters-For-Review.pdf> (<https://business.delaware.gov/wp-content/uploads/sites/118/2020/05/DSB-COVID-19-Posters-For-Review.pdf>).

- e. Businesses should use doors, windows and other ventilation mechanisms to increase introduction of fresh air and turnover of air within the business' location.
- f. All surfaces touched by patrons or visitors, including doors, seating, restrooms, elevators, and point of sale infrastructure must be disinfected using an EPA-approved disinfectant every fifteen (15) minutes for two (2) hours. Businesses should limit cash transactions, and encourage patrons to use credit, debit, or other contactless forms of payment. Cash registers and pin pads must be sanitized after each use.
- g. Businesses should discourage the use of shared phones, desks, workstations, radios, and wearable technology. If these are unavoidable, a business must ensure that such space or technology is sanitized after each use.
- h. Businesses must make hand sanitizer or handwashing stations readily available for all employees, patrons, and visitors throughout the business' location, including at each entry and exit at a minimum. Hand sanitizer must be composed of at least sixty percent (60%) ethanol or seventy percent (70%) isopropanol.
- i. Hand sanitizer must be used by employees at frequent intervals during any service, appointment, or other scheduled gathering or event, including at a minimum after contact with surfaces touched by others, when incidental contact has been made with a patron or visitor, and prior to preparing or distributing food or drink.
- j. Businesses must stagger services, appointments, or other scheduled gatherings and events to allow for a thorough cleaning and disinfecting according to CDC guidelines of any public spaces before the next service, appointment, or other scheduled gathering or event begins.
- k. Follow all State and CDC guidelines and recommendations for social distancing, including that employees maintain six (6) feet of space between themselves and other employees, patrons, and visitors to the greatest extent possible.
- l. For fixed seating venues, only sixty percent (60%) of patron or visitor seating may be occupied and there must be a six (6) foot radius around individual household units. Patrons and visitors must exit their seats in an orderly, row by row fashion, as directed by venue staff.
- m. Businesses are strongly encouraged to modify any practices that cause close contact (meaning being within six (6) feet for ten (10) minutes or more) or sharing items among patrons or visitors.
- n. Sharing microphones is prohibited. All microphones, whether they be self-standing in holders, handheld or lapel style must be sanitized after each use.
- o. Implement flexible and non-punitive sick-leave policies to facilitate compliance with this Modification. Such policies should follow any guidance from the CDC and DPH regarding COVID-19.
- p. Employers are encouraged to continue teleworking. Employees who have been working from home throughout this crisis should continue working from home unless there is a substantive change to business operations in Phase 2 (e.g., a business was closed, but now it's open).
- q. Exclude employees who (a) have been diagnosed with COVID-19, (b) are reasonably suspected to have COVID-19, or (c) have symptoms of COVID-19, such as fever, cough, shortness of breath, new loss of taste or smell, sore throat, aches or muscle pain, chills or repeated shaking with chills. Such employees shall stay home and not come to work until they are free of fever (100.4 °F or greater using an oral thermometer), signs of a fever, and any other symptoms of COVID-19 for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines (e.g., cough suppressants). These employees should notify their supervisor and stay home if they are sick. Symptomatic employees must not physically return to work until cleared by a medical professional.

- r. Prohibit employees who have been told they must be isolated or quarantined from on-premises work until isolation or quarantine status is discontinued by DPH.
- s. Separate sick employees from other individuals immediately.
- t. Enforce cough and sneeze hygiene.

3. Determination of Maximum Occupancy. With respect to the Phase 2 Reopen Plan, maximum occupancy for a business means thirty percent (30%) of stated fire occupancy requirements, excluding employees, unless expressly stated otherwise by the Phase 2 Additional Business Restrictions, effective December 14, 2020, as set forth below.

4. The following business categories may continue operations or reopen subject to the responsibilities listed in the Phase 2 Reopen Plan, and as amended, available at <https://governor.delaware.gov/wp-content/uploads/sites/24/2020/06/Delaware-Economic-Reopening-PHASE-2.pdf>

(<http://delaware.gov>)

(<https://governor.delaware.gov/wp-content/uploads/sites/24/2020/06/Delaware-Economic-Reopening-PHASE-2.pdf>), as follows:

a. *Arts and Culture, Museums, Galleries, and Historical Attractions.* The Arts and Culture industry which is comprised of several different types of businesses: Performing Arts; Museums, Galleries, Libraries, Historical Attractions and Arts Education Institutions, may continue operations or reopen provided, however, that the total number of guests permitted entry into an establishment at any one time shall not exceed sixty percent (60%) of stated fire occupancy requirements. Additional requirements for Arts and Culture, Museums, Galleries, and Historical Attractions are listed in the Phase 2 Reopen Plan.

b. *Food and Drink Establishments.*

i. Providers of food or drink, such as restaurants, breweries, taverns, and taprooms that provide table service may continue operations or reopen provided, however, that the total number of guests within an establishment shall not exceed thirty percent (30%) of that establishment's stated fire occupancy requirements. Food and Drink Establishments are required to notify patrons that they may provide their name and phone number or email address to the establishment, and that the establishment will keep the information on file for the sole purpose of allowing DPH to contact the patron if another patron or an employee is later found to have tested positive for COVID-19. If a patron leaves such contact information, the establishment must retain the information for twenty-eight (28) days. The establishment need not deny service to patrons who do not provide contact information for this purpose. Additional requirements for Food and Drink Establishments are listed below and in the Phase 2 Reopen Plan.

1. Tables and booths must be arranged in a way that ensures customers at one table are at least six (6) feet apart from customers who are adjacent to or facing them unless barriers are present. If barriers are used:

- a. Must be at least six (6) feet in height and start no more than two (2) feet from the floor.
- b. Must be wide enough to provide coverage for people seated at the table.
- c. Can be installed for this purpose, but walls, booths, etc., that meet the size requirements are acceptable.

2. Establishments that are not able to reach at least thirty percent (30%) of fire code occupancy (excluding staff) while complying with safety requirements may submit an alternative plan for COVID-safe dining to DPH at HSPcontact@delaware.gov (<mailto:HSPcontact@delaware.gov>). Plans may not be implemented until approved by DPH. Other than when eating or drinking, staff and customers must wear a face covering in accordance with the State of Emergency Order at all times.

3. Whether indoors or outdoors, tables and booths must be arranged in a way that ensures seated customers at one table are at least six (6) feet apart from seated customers at

another table.

4. A table must be disinfected before each new party is seated.
5. All patrons must have a seat, be seated, and remain seated unless going to the restroom.
6. Any common areas where people would typically stand or engage in other activities must be off limits if not otherwise occupied by tables with seated patrons. This includes dance floors, arcade/bar game areas, pool tables, and similar spaces. Food and Drink Establishments may not exceed thirty percent (30%) of stated fire occupancy requirements for the indoor area under any circumstances.
7. For food and drink establishments that provide table service:
 - a. Customers must have a reservation unless the establishment has a system for ensuring that customers without a reservation do not gather while waiting to be seated.
 - b. Takeout may continue but food and drink establishments are encouraged not to allow patrons to enter the dining facility when picking up an order.
 - c. Tables within food and drink establishments are limited to parties of six (6) persons, consisting of no more than four (4) adults, and seats must be spaced at least six (6) feet apart unless barriers are present between members of different households consistent with subparagraph 1. above.
8. For food and drink establishment that do not provide table service:
 - a. Counter service locations must be spaced six (6) feet apart.
 - b. Signage and floor markings must be used to designate appropriate spacing for patrons waiting in line.
 - c. Staff must be designated to monitor patrons entering the facility, to monitor lines and to ensure social distancing throughout the facility, and to ensure the use of face coverings in compliance with this order.
 - d. The total number of guests within a facility shall at no time exceed thirty percent (30%) of fire occupancy requirements.
9. All condiments (salt, pepper, ketchup, mustard, mayo, sugar, etc.) must be provided directly to diners in single-use, disposable containers or re-usable containers that are cleaned between uses by new parties.
10. Cups, lids, napkins, and straws must be delivered to the table after the party has been seated.
11. Proper precautions must be taken when handling ready-to-eat foods. Variances or other allowances for bare hand contact are void until these restrictions are lifted.
12. Self-service food and buffet options may only reopen if the facility assigns dedicated staff to distribute food, and any customers at the buffet are socially distanced from others who are not from the same household.
13. Any to-go containers for food guests bring home after dining must be protected from possible contamination.
14. Every restaurant must have its own reopening plan and must follow DPH guidance.
15. For purposes of this Modification, an area with less than two contiguous walls is not part of the interior space of the Food and Drink Establishment and is considered an outdoor space.

- ii. Notwithstanding the provisions of this Modification and the Phase 2 Reopen Plan, effective Monday, November 23, 2020 at 8:00 a.m. E.D.T., the following additional restrictions shall apply to taprooms and bar service in all food and drink establishments, including to any service that is provided indoors or outdoors:

1. Premises licensed to sell alcohol for consumption on the premise may not permit patrons to stand at a bar, but may open the bar to prepare drinks to be brought to patrons seated at tables and to serve alcohol to patrons seated at the bar. Tables and seats within the bar area and at the bar must be arranged for parties of two (2) persons at least six (6) feet apart between parties and members of different households. Premises licensed to sell alcohol for consumption on the premise that choose to use designated bar space for seating patrons must arrange tables consistent with the Phase 2 Reopen Plan to allow for minimum social distancing.

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2. Any common areas where people would typically stand or engage in other activities must be off limits if not otherwise occupied by tables with seated patrons. This includes dance floors, arcade/bar game areas, pool tables, and similar spaces. Food and Drink Establishments may not exceed thirty percent (30%) of stated fire occupancy requirements for the indoor area under any circumstances.

- c. *Retail Establishments.* Retail businesses, organizations, establishments, and facilities in the State of Delaware that principally sell goods ("Retail Establishments") may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in a Retail Establishment at any one time shall not exceed sixty percent (60%) of that Retail Establishment's stated fire occupancy requirements. Additional requirements for Retail Establishments are listed in the Phase 2 Reopen Plan.
- d. *Malls.* A mall means a collection of stores that are all contained within a building that contains interior walkways and common spaces between stores that consumers pass through as they move from store to store. This does not include facilities that have a collection of stores but have no interior common area, otherwise known as strip malls. Those strip malls should advise stores to follow individual guidance that may apply to their individual store. Malls may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in a mall at any one time shall not exceed sixty percent (60%) of that mall's stated fire occupancy requirements. Additional requirements for malls are listed in the Phase 2 Reopen Plan. All restaurants, bars, or other food and beverage service, including the food court, in a mall shall operate within the same parameters for Food and Drink Establishments as set by this Twenty-Seventh Modification. Additional requirements for malls are listed in the Phase 2 Reopen Plan.
- e. *Personal Care Services.* This section shall apply to barber shops, hair salons, tanning salons, tattoo services, massage therapy services, nail care, brow care, spas, waxing services, and similar services. These consumer services may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in an establishment at any one time shall not exceed sixty percent (60%) of that facility's stated fire occupancy requirements. If a customer must remove a face covering for a service to be performed (e.g. make-up application, facial, etc.) the professional providing services shall wear a face covering AND face shield during the procedure until the client is able to wear their face covering or the procedure is complete, and six (6) feet of social distance can be maintained. Additional requirements for consumer services are listed in the Phase 2 Reopen Plan.
- f. *Exercise Facilities.* Exercise facilities may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in an establishment at any one time shall not exceed thirty percent (30%) of that facility's stated fire occupancy requirements. Additional requirements for exercise facilities are listed in the Phase 2 Reopen Plan.
- g. *Realty.* Realty includes the sale and long-term rental of houses, apartments, condominiums, store fronts, office spaces, and similar residential and commercial properties. Realty can resume open houses, provided, however, that when determining the number of persons who may attend an open house at any one time, hosts should calculate usable capacity at thirty (30) square feet per person up to a maximum of ten (10) individuals (including realtors and staff), all individuals must wear face

coverings and individuals who are not part of the same household remain at least six (6) feet apart to the greatest extent possible and are encouraged to maintain greater physical distance whenever possible. The selling party must ensure the interior of the property is properly disinfected after each open house. Additional requirements for realty are listed in the Phase 2 Reopen Plan.

h. *Casinos*. Any establishment holding a gaming and table gaming license may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in a casino at any one time shall not exceed sixty percent (60%) of that casino's stated fire occupancy requirements. Additional requirements for casinos are listed in the Phase 2 Reopen Plan.

i. *Racetracks*. Racetracks are any facilities in the state licensed for the racing of horses, other animals or automobiles. Racetracks may continue operations or reopen to the general public, provided, however, that the total number of guests permitted at a racetrack at any one time shall not exceed sixty percent (60%) of that racetrack's stated fire occupancy requirements. Additional requirements for racetracks are listed in the Phase 2 Reopen Plan.

j. *Parks and Recreation Facilities*. Parks and recreation facilities include any public or private park and any outdoor recreational facility such as a zoo, miniature golf course, outdoor tennis facility or batting cage and other similar activities not explicitly listed under Phase 2 Limited Businesses, below. Parks and recreation facilities may remain open, or may re-open if closed, with modifications to ensure visitors can maintain social distancing at all times. All gatherings or events held in parks and recreation facilities shall comply with the gathering requirements set forth by this Twenty-First Modification. Additional requirements for parks and recreation facilities are listed in the Phase 2 Reopen Plan.

k. *Personal Driving Schools*. Personal driving schools and instruction may reopen, provided that at a maximum the vehicle may contain one adult and one student in front driver and passenger seats, and one additional person in the back seat. All occupants must wear face coverings at all times. Windows should be open as much as possible to help air exchange within the vehicle to reduce viral load.

l. *Senior centers, adult day centers and senior congregate nutrition programs*. Senior centers, adult day centers and senior congregate nutrition programs may reopen, provided, however, that the total number of guests (excluding staff) permitted in a facility at any one time shall not exceed thirty percent (30%) of that facility's stated fire occupancy requirements. Senior centers, adult day centers and senior congregate nutrition programs are strongly encouraged to develop a plan to support contact tracing if a positive case is associated with the business location, including to request that customers provide contact information (name, email address, and telephone numbers) and to record the date of service. In addition to the responsibilities for all businesses, senior centers, adult day centers and senior congregate nutrition programs must also:

- i. Identify a staff member who will serve as the Pandemic Response Person for the program, responsible for communicating and implementing COVID-19 mitigation efforts.
- ii. Prior to beginning operations, senior centers must develop a written plan to address all applicable guidance and restrictions for operation. The plan must be available upon request for review by DPH. The plan should include new policies on senior center operations due to COVID-19 and senior centers should communicate those policies to participants prior to reopening. These policies include, but are not limited to:
 1. Operational policies to address social distancing, the number of participants attending at any one time, changes in programming, and communicating with participants.
 2. Meal service policies that allow for social distancing, any changes in meal service such as how meals will be served, use of a reservation system, and how the senior center will manage meal service if it must serve fewer participants due to social distancing. Refer to FDA Best Practices guidance for reopening food establishments.
 3. Sanitation and cleaning policies.

4. Staff and participant testing policies.
5. Staff and participant screening policy – Routinely use the State of Delaware’s standardized health screening tool.
6. Face coverings and Personal Protective Equipment (PPE) requirement policies.
7. Additional best practices can be found in the Department of Health and Social Services Guidance.

- m. *Commercial Lodging.* As used herein, Commercial Lodging includes hotels, motels, inns, short-term accommodations, vacation homes, or condo rentals (such as Airbnb, VRBO, HomeAway or any other vacation or overnight accommodation rental), and other lodgings providing overnight accommodations. Commercial Lodging may continue operations or reopen, provided that the total number of guests within common areas (lobby) of any hotel, motel, or inn shall not exceed sixty percent (60%) of that establishment’s stated fire occupancy requirements, and the total number of guests within any gym or exercise facility not exceed thirty percent (30%) of that establishment’s stated fire occupancy requirements. The sixty percent (60%) limit does not apply to the number of hotel rooms that may be booked or occupied at one time or to short term rental accommodations, such as vacation homes or condo rentals. All restaurants, bars, or other food and beverage service in Commercial Lodging shall operate within the same parameters for Food and Drink Establishments as set by this Twenty-Seventh Modification. All fitness centers, pools, spas, and all indoor places of congregation, including conference rooms and meeting rooms, shall operate within the same parameters as set by this Twenty-Seventh Modification. Additional requirements for Commercial Lodging are listed in the Phase 2 Reopen Plan.
- n. *Campgrounds.* Campgrounds may continue operations or reopen but must ensure that the spacing of individual campsites (tent or RV) are at least six (6) feet from any other campsite. Additional requirements for campgrounds are listed in the Phase 2 Reopen Plan.
- o. *Private Instruction.* Private instruction covers a wide variety of classroom-based or similar instruction that is not in a traditional K-12 or post-secondary environment, including tutoring services, testing centers, adult education, or specific vocational training facilities (outside of traditional K-12 structures). Private instruction may reopen, provided, however, that the total number of learners permitted in private instruction at any one time shall not exceed sixty percent (60%) of that facility’s stated fire occupancy requirements. Additional requirements for private instruction are listed in the Phase 2 Reopen Plan.
- p. *Auction Houses.* Auction Houses may continue operations or reopen to the general public, provided, however, that the total number of guests permitted in an Auction House at any one time shall not exceed thirty percent (30%) of that Auction House’s stated fire occupancy requirements. Additional requirements for Auction Houses are listed in the Delaware Auctioneer’s Association Guidelines issued by the Delaware Department of Agriculture, incorporated by reference herein.
- q. *Houses of Worship and Political Gatherings.* Notwithstanding the indoor gathering occupancy limits set forth in Paragraph N.2, Houses of Worship may continue to offer in-person worship services, provided, however, that the total number of guests permitted in a House of Worship at any one time shall not exceed the lesser of thirty percent (30%) of that House of Worship’s stated fire occupancy or one hundred (100) guests. In addition, and consistent with the authority offered to certain other businesses or indoor spaces open to the public to modify capacity, a House of Worship may apply to host worship services of more than one hundred (100) guests, but not to exceed thirty percent (30%) of that House of Worship’s stated fire occupancy, by submitting a facility-specific plan to HSPcontact@delaware.gov (<mailto:HSPcontact@delaware.gov>) for consideration. Facility-specific plans must outline how the applicant will prevent, reduce the spread of, and suppress the transmission of COVID-19 during worship services in light of the requested additional number of guests. Facility-specific plans may not be implemented until approved by DPH. For the purpose of clarity, nothing in this paragraph prohibits a House of Worship: (1) from offering multiple or additional

daily worship services which otherwise comply with the requirements of this Order, or (2) from the concurrent use of available outdoor space to facilitate wider attendance at worship services when such use of outdoor space is otherwise compliant with the outdoor gathering requirements set forth by this Twenty-Seventh Modification. For the purposes of this paragraph, political gatherings shall be entitled to the same occupancy parameters and administrative remedies as Houses of Worship.

- r. *Swimming facilities (public or community)*. Public and private swimming facilities, except pools associated with an individual, single-family home, may continue operations or reopen provided, however, that the total number of guests permitted in a swimming facility at any one time shall not exceed sixty percent (60%) of that swimming facility's stated fire occupancy requirements. Additional requirements for swimming facilities are listed in the DPH Guidance for Public and Community Swimming Pools.

(http://delaware.gov)

- s. *Golf courses*. Golf courses may continue operations or reopen, provided they ensure participants are socially distanced. All restaurants, bars, or other food and beverage service at golf courses shall operate within the same parameters for Food and Drink Establishments as set by this Twenty-Seventh Modification. All fitness centers, pools, spas, and all indoor places of congregation, including conference rooms and meeting rooms, shall operate within the same parameters as set by this Twenty-Seventh Modification. Any pro shops must operate within the same parameters for Retail Establishments as set by this Twenty-Seventh Modification.
- t. *Convention Centers & Meeting Facilities*. Convention centers and meeting facilities may reopen provided, however, that the total number of guests permitted in a facility at any one time shall not exceed sixty percent (60%) of that facility's stated fire occupancy requirements. Additional requirements for convention centers and meeting facilities are listed in the Phase 2 Reopen Plan.
- u. *Ice cream, water ice, custard, or similar shops, and ice cream trucks*. Ice cream, water ice, custard, or similar shops, and ice cream shall operate within the same parameters for Food and Drink Establishments as set by this Twenty-Seventh Modification, except that children under twelve (12) years old may not order from a window or an ice cream truck unless accompanied by an adult.
- v. *Commercial offices and residential buildings with at least 50 units*. Owners of buildings used for commercial, industrial or other enterprises, including but not limited to facilities for warehousing, manufacturing, commercial offices, airports, universities, colleges, and residential buildings with at least 50 units, shall adopt policies that, at minimum, implement the following cleaning protocols:
1. Clean and disinfect high-touch areas routinely in accordance with CDC guidelines, particularly in spaces that are accessible to staff, customers, tenants, or other individuals, and ensure cleaning procedures following a known or potential exposure in a facility are in compliance with CDC recommendations;
 2. Otherwise maintain cleaning procedures in all other areas of the facility; and
 3. Ensure that the facility has a sufficient number of workers to perform the above protocols effectively and in a manner that ensures the safety of occupants, visitors, and workers.

PHASE 2 LIMITED BUSINESSES: The following businesses are not permitted to open during Phase 2, except as provided:

1. Sporting facilities and venues (professional and amateur), including but not limited to arcades, bowling alleys, indoor skating rinks (ice and non-ice), martial arts studios, dance studios, indoor tennis and similar indoor athletic facilities, unless they can create a facility-specific plan to observe the industry guidance provided for exercise facilities. Plans should be emailed to hspcontact@delaware.gov (mailto:hspcontact@delaware.gov) for consideration.
2. Indoor children's play areas, including softscape or hardscape playground facilities, trampoline parks and children's museums, unless they can create a facility-specific plan to observe the industry guidance provided for indoor children's play areas, including that that the total number of guests permitted in a facility at any one time shall not exceed thirty percent (30%) of that facility's stated fire occupancy

requirements. Plans should be emailed to hspcontact@delaware.gov (<mailto:hspcontact@delaware.gov>) for consideration. The responsibility for enforcing the occupancy limits lies with the facility operator.

3. Water parks, unless they can create a facility-specific plan to observe the industry guidance provided for water parks, including that the total number of guests permitted in a facility at any one time shall not exceed thirty percent (30%) of that facility's stated fire occupancy requirements. Plans should be emailed to hspcontact@delaware.gov (<mailto:hspcontact@delaware.gov>) for consideration. The responsibility for enforcing the occupancy limits lies with the facility operator.

PHASE 2 ADDITIONAL BUSINESS RESTRICTIONS, EFFECTIVE DECEMBER 14, 2020:

Notwithstanding the provisions of this Modification and the Phase 2 Reopen Plan, effective December 14, 2020 at 8:00 a.m. E.D.T., the following additional restrictions shall apply:
(<http://delaware.gov>)

1. Determination of Maximum Occupancy. Maximum occupancy for all businesses and indoor spaces open to the public is as follows:
 - a. Notwithstanding the indoor gathering occupancy limits set forth in Paragraph N.2, Houses of Worship may continue operations or reopen provided, however, that the total number of guests permitted in a House of Worship at any one time shall not exceed forty percent (40%) of that House of Worship's stated fire occupancy. For the purposes of this paragraph, political gatherings shall be entitled to the same occupancy parameters as Houses of Worship. For the purposes of this paragraph, a funeral mass, memorial service, visitation, wake, or viewing within a House of Worship or funeral home shall be entitled to the same occupancy parameters as Houses of Worship.
 - b. Retail establishments of five-thousand square feet (5,000 sq. ft.) or less may continue operations or reopen provided, however, that the total number of individuals within the retail establishment shall not exceed forty percent (40%) of that facility's stated fire occupancy requirements.
 - c. Businesses with less than one-hundred thousand square feet (100,000 sq. ft.) and retail establishments having five thousand and one square feet (5,001 sq. ft.) but no more than one-hundred thousand square feet (100,000 sq. ft.) may continue operations or reopen provided, however, that the total number of individuals within them shall not exceed thirty percent (30%) of that facility's stated fire occupancy requirements.
 - d. 100,001+ SQ FT: All businesses, including retail establishments, having one-hundred thousand and one or more square feet (100,001+ sq. ft.) may continue operations or reopen provided, however, that the total number of individuals within the business shall not exceed twenty percent (20%) of that facility's stated fire occupancy requirements.
2. Food and Drink Establishments. In addition to the maximum occupancy requirements set forth above, the following additional restrictions shall apply to Food and Drink Establishments:
 - a. The total number of guests permitted in a food court at any one time shall not exceed twenty percent (20%) of that facility's stated fire occupancy requirements or one hundred (100) individuals, whichever is less.
 - b. Food and Drink Establishments must close indoor and outdoor dining between the hours of 10:00 p.m. and 5:00 a.m. each night. Take-out, curbside, or drive through services are permitted to continue. Food and Drink Establishments with a valid on-premise license issued pursuant to Chapter 5, subchapter II of the Delaware Code may continue to sell alcoholic beverages in transactions for take-out, curbside, or drive through service if the alcoholic beverages for off-premise consumption are in containers which are securely closed as permitted by 4 Del. C. §512.
 - c. Food and Drink Establishments must place a sign on each table stating that only customers from the same household may share a table. Tables within food and drink establishments are limited to parties of six (6) persons, consisting of no more than four (4) adults.
3. Exercise Facilities. In addition to the maximum occupancy requirements set forth above, the following additional restrictions shall apply to Exercise Facilities:

- a. Group exercise classes are limited to a maximum of ten (10) individuals (excluding staff). Facilities hosting multiple group exercise classes at the same time must allow for a minimum of twenty (20) feet between classes. All individuals must wear face coverings and individuals who are not part of the same household must remain at least thirteen (13) feet apart during classes and are encouraged to maintain greater physical distance whenever possible.
- b. Staff must be on-site to monitor patrons entering the facility, to ensure social distancing throughout the facility, and to ensure the use of face coverings in compliance with this order.

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O. Youth and Amateur Adult Sports

1. APPLICATION AND ENFORCEMENT.

- i. Application. All youth and amateur adult sports facilities, organizations and leagues must review this document and follow all mandated terms for operation below. Every athletic facility and sport organization is responsible for enforcing these requirements.
- ii. Schedules Incorporated. In addition to the requirements found herein, attached to this Modification are general guidance, risk-based specific considerations, and DPH-approved rule modifications. These documents will be updated, periodically, by DPH based on the latest science. Any mandatory requirements in those schedules have the full force and effect of law.
- iii. Enforcement. Fines or closure may be imposed upon facilities and organizations that do not abide by these requirements. Failure to comply with plans submitted to, and approved by, DPH will result in rescission of plan approval and further enforcement.
- iv. Out-of-State Travel. Effective Tuesday, December 1, 2020 at 8:00 a.m. E.D.T., any individual who participates in an out-of-state tournament or competition (e.g., (e.g., ice hockey, basketball, football, competitive cheer or dance) must immediately self-quarantine in accordance with DPH guidance from the time of entry into Delaware or for the duration of the individual's presence in Delaware, whichever period is shorter.

2. DEFINITIONS. For the purposes of this Twenty-Seventh Modification to the COVID-19 State of Emergency declaration, the following terms shall have the meaning described herein:

- i. "High risk" means activities that involve sustained or repeated close contact of athletes with one another. Examples include ice hockey, basketball, tackle football, boys'/men's lacrosse, wrestling, boxing, rugby, competitive cheer, martial arts, ultimate frisbee, and pairs figure skating.
- ii. "Low risk" means activities that are either individual or able to be completed with adequate social distancing and no direct physical contact. Examples include singles tennis, golf, individual running and swimming, pickleball, disc golf, individual biking, surfing, horseback riding, individual sailing, fishing, hunting, motor sports, and singles rowing.
- iii. "Medium risk" means activities that involve participants in close proximity, and typically involve intermittent personal contact. Examples include baseball, softball, field hockey, girls'/women's lacrosse, soccer, flag or 7-on-7 football, team running, running clubs and track and field, team swimming, rowing (other than with household members), sailing, volleyball, dance class, fencing, and gymnastics.

3. SUBMISSION AND APPROVAL OF PLANS.

- i. Tournaments are not permitted until plans for the tournaments are approved by DPH. Tournament facilities shall submit plans to HSPcontact@delaware.gov (mailto:HSPcontact@delaware.gov) for

review. Plans must include a method to collect contact information for all players, staff, coaches, officials and spectators, as well as team rosters and game schedules to assist with contact tracing in the event of a COVID-19 infection. Effective December 1, 2020 at 8:00 a.m. E.D.T., the hosting of or participation in out-of-state tournaments is hereby prohibited. Effective December 7, 2020 at 8:00 a.m. E.D.T., and until further notice, tournaments plans may be submitted but will not be approved by DPH, except that tournaments having received approval from the Division of Public Health to play prior to Monday, December 7, 2020 are hereby granted an exception to the restrictions on tournaments in this paragraph, unless notified by DPH that a plan modification is necessary for the public health and safety.

ii. Facilities, leagues or organizers that will host indoor sports, including leagues and tournaments, must have a plan approved by DPH. Plans must address face coverings, social distancing, ventilation, and other applicable requirements. Plans must also include a method to collect contact information for all players, staff, coaches, officials and spectators, as well as team rosters and game schedules to assist with contact tracing in the event of a COVID-19 infection. Plans shall be submitted by facilities to HSPContact@delaware.gov (mailto:HSPContact@delaware.gov).

iii. Facilities, organizers or leagues that wish to modify the requirements for any high risk category activity may request to modify rules in order to prevent athletes from being in close proximity or direct contact with one another (e.g., USA Lacrosse Rule Modifications would allow boys' lacrosse to be in the medium risk category). Such facilities, organizers or leagues may also request face covering modifications. Rule or face covering modifications must be approved by DPH. Requests shall be submitted to HSPContact@delaware.gov (mailto:HSPContact@delaware.gov).

4. FACE COVERINGS.

- i. Athletes participating in high risk sports and activities must wear a face covering, as required by the Governor's Declaration of a State of Emergency, at all times unless rule changes or face covering modifications approved by DPH are in place to prevent athletes from being in close proximity or direct contact with one another, as discussed in Paragraph 3.iii. above.
- ii. All athletes playing indoors must wear face coverings at all times, unless rule changes or face covering modifications approved by DPH are in place.
- iii. Coaches and all staff must wear a face covering at all times. This includes when addressing players or officials on or off the field, when coaching during the game, and during practices, trainings and team meetings.
- iv. Referees and officials must wear a face covering at all times. Traditional whistles must be replaced with a device that can be used for attention without removing the face covering.
- v. Spectators and others must wear a face covering at all times while indoors. Spectators and others must also wear a face covering at all times while outdoors, irrespective of physical distance from members outside their household.
- vi. Coaches, staff and referees who have a medical condition that makes it hard to breathe or a disability that prevents the individual from wearing a face covering can request a reasonable accommodation from their employer or the individual responsible for the athletic event.

5. SOCIAL DISTANCING.

- i. Players must be at least six (6) feet apart from one another at all times, except during on-field play in game-time situations.
- ii. Dugouts, benches and other limited or enclosed gathering spaces must not be used unless six (6) feet of distancing can be maintained.
- iii. Players and coaches must be at least six (6) feet apart from one another at all times unless they are from the same household.
- iv. Players must be provided adequate space for belongings, water bottles and equipment to ensure six (6) feet of distancing when accessing gear.

6. HAND WASHING, SANITIZING, CLEANING AND DISINFECTING.

- i. Players, staff, coaches, officials and all participants in sports must wash hands or sanitize hands, per CDC and DPH guidelines, before and after practice and games. Washing or sanitizing during games and practices with shared equipment or facilities is strongly encouraged, especially when balls or equipment are touched by more than one person.
- ii. Hand sanitizer or hand washing stations must be readily available for all players, staff, coaches, officials, spectators and all participants throughout the business location, including at each entry and exit. Hand sanitizer must be composed of at least sixty percent (60%) ethanol or seventy percent (70%) isopropanol.
- iii. Facilities must be cleaned at least once per day (or between uses if not used daily). High contact surfaces, including but not limited to doorknobs, light switches, and railings, must be cleaned every fifteen (15) minutes to two (2) hours. EPA List 6 approved disinfectant must be used for frequently touched surfaces.

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7. GENERAL REQUIREMENTS.

- i. All facilities, organizers and leagues, must identify a safety and hygiene manager who is responsible for coordinating and enforcing COVID-19 protocols. All coaches, staff, officials and families should know who this person is and how to contact them. Any plans submitted to DPH must identify this individual.
- ii. Coaches, staff, officials, parents and players must be informed and routinely reminded of team infection control measures and COVID-19 protocols – especially around face coverings and social distancing.
- iii. Coaches, staff, officials, parents and players must be informed about the expectation to stay home when sick, to contact the team safety and hygiene manager if they test positive for COVID-19, and to inform DPH about possible exposures.
- iv. A health self-assessment must be completed by each athlete, coach and staff prior to engaging in any athletic activity in a facility, organization or league.
- v. Each athlete shall have only one person accompany them to practices; more than one person may attend games. All persons attending practices and games shall wear a face covering as required in Paragraph 4., above, and be at least six (6) feet apart from others, unless waiting in their car.
- vi. Teams and leagues must have written arrival and departure procedures that, at a minimum address:
 1. Staggered arrival/departure to reduce mixing of groups;
 2. A procedure for health assessment for all athletes, coaches and staff; and
 3. A protocol to address a person who develops symptoms during activity.
- vii. Sports organizations and facilities must post extensive signage instructing staff, participants and spectators about required face coverings and maintaining six (6) feet of distance from others. Printable signs that will help you comply with signage requirements are available at de.gov/playsafelysign.
- viii. For sports gatherings conducted in compliance with these requirements, the gathering limit of fifty (50) people applies to spectators. Athletes, coaches, and staff are exclusive of the fifty (50) person limit.

8. RISK-BASED REQUIREMENTS. In addition to the requirements above, specific activities or sports will be classified according to risk, and organizers must conduct activities in accordance with the risk-based classification. For sports where the risk category has not been identified below, sports organizers must confirm the risk category with DPH at HSPContact@delaware.gov (<mailto:HSPContact@delaware.gov>) prior to initiation of practices or competitions.

- i. For low risk activities, if social distancing and other general guidance can be followed, no modifications are needed.
- ii. For medium risk activities, the following are required at all times:
 1. Staggered starts must be used for sports like running that typically involve group starts.
 2. Activities must be conducted outside unless approved by DPH.

3. Shared equipment must be disinfected between users.

- iii. For medium risk activities, shorter practice times or smaller groups shall be used to reduce contact time between participants.
- iv. For medium risk activities, the following rule and play modifications are required if face coverings are not worn at all times:
 - 1. Deliberate, direct physical contact, including body checking, tackling, blocking, pack running/riding, must be eliminated.
 - 2. Rule changes must be in place to prevent close proximity or contact by replacing face-offs, restarts, etc., with alternatives that allow for social distancing.
- v. For high risk activities, athletes must comply with the face covering requirements in Paragraph 4.i., above, unless a rule or face coverings modification is approved by DPH. High risk activities may combine requests for rule modifications and face covering modifications with a cohort model. If a cohort model is used:
 - 1. Each cohort must be limited to no more than fifteen (15) athletes, and the cohort should be maintained as a stable group with no mixing with other cohorts.
 - 2. Equipment should not be shared between cohorts. If sharing is unavoidable, e.g., mats, the equipment must be cleaned and disinfected between cohorts.
 - 3. Shorter practice times or smaller groups should be used to reduce contact time between participants.

9. ADDITIONAL RESTRICTIONS, EFFECTIVE DECEMBER 14, 2020. Notwithstanding the provisions of this Modification and the Phase 2 Reopen Plan, effective December 14, 2020 at 8:00 a.m. E.D.T., the following additional restrictions shall apply until January 11, 2021, unless expressly extended:

- i. All games, matches, and competitions are hereby suspended, except that any game, match, or competition that received approval from the Division of Public Health prior to Monday, December 14, 2020 is hereby granted an exception to the additional restrictions that became effective in this Modification on Monday, December 14, 2020 for that game, match, or completion, unless notified by DPH that a plan modification is necessary for the public health and safety.
- ii. The maximum occupancy for any indoor practice is thirty percent (30%) of stated fire occupancy requirements, **including** athletes, coaches, and other employees or staff, but excluding the one person permitted to accompany an athlete to any practice as provided in Paragraph 7.v. of this section.

P. Miscellaneous

- 1. To the extent permitted by Delaware and local law, local governments may impose greater restrictions or prohibitions on the activities of people and businesses than those imposed under this Twenty-Seventh Modification to the State of Emergency. Most of the restrictions in this Twenty-Seventh Modification are minimum requirements. Because the impact of COVID-19 has been and will likely continue to be different in different parts of Delaware, counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations that impose such additional restrictions or prohibitions.
- 2. This Order has the force and effect of law. Any failure to comply with the provisions contained in a Declaration of a State of Emergency or any modification to a Declaration of the State of Emergency may

constitute a criminal offense. 20 Del. C. §§ 3115 (b); 3116 (9); 3122; 3125. State and local law enforcement agencies are authorized to enforce the provisions of any Declaration of a State of Emergency.

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