



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Thursday, August 5, 2021

The County Council for Montgomery County, Maryland convened via video conference at 2:04 P.M. on Thursday, August 5, 2021.

PRESENT

Councilmember Tom Hucker, President

Councilmember Andrew Friedson

Councilmember Will Jawando

Councilmember Nancy Navarro

Councilmember Gabe Albornoz, Vice President

Councilmember Evan Glass

Councilmember Sidney Katz

Councilmember Craig Rice

Councilmember Hans Riemer

The President in the Chair.

GENERAL BUSINESS

- A. **Announcement** - The public hearing on the Spending Affordability Guidelines for the FY23 Capital Budget and the FY23-28 Capital Improvements (CIP) Program will be held on September 21, 2021, at 1:30 P.M.

(1) COUNCIL SITTING AS BOARD OF HEALTH

- A. Introduced a resolution to adopt a Board of Health Regulation to prevent the spread of COVID-19 in the County

Legislative Attorney Wellons explained that the Board of Health Regulation relates to indoor masking requirements if the County becomes an area of “substantial” community transmission of COVID-19.

and **Public Hearing** - Resolution to adopt a Board of Health Regulation to prevent the spread of COVID-19 in the County

The public hearing was held and the record closed.

B. Action - Resolution to adopt a Board of Health Regulation to prevent the spread of COVID-19 in the County

Participating in the discussion were Ms. Wellons, Dr. Gayles, County Health Officer and Chief of Public Health Services, Department of Health and Human Services (DHHS); Ms. Kinch, Chief, Division of Labor Relations and Public Safety, County Attorney's Office; and Mr. Hartman, Director of Strategic Partnerships.

Dr. Gayles stated that the County's transmission level metrics are consistent with those of the Centers for Disease Control and Prevention (CDC), the District of Columbia, and other adjacent jurisdictions, and that according to that definition, the County reached the "substantial" level today with 50-99 total new cases per 100,000 persons in the past 7 days or 8-9.99% test positivity during the past 7 days. Ms. Kinch stated if the regulation is adopted, the masking requirement would take effect on Saturday, August 7 at 12:01 A.M.

Councilmembers spoke in support of the regulation, noting that because of residents' willingness to adhere to the recommendations of public health officials, the County has not experienced a devastating number of hospitalizations and deaths as has occurred in other areas. Dr. Gayles stated the Delta variant of the virus is a more potent strain and poses a higher risk of transmission, there is no guarantee children won't get sick from the virus, and the long-term effects of the virus are still unknown.

Approved unanimously Mr. Friedson's motion to amend lines 46-48 of the resolution to require daily posting of community transmission data as follows:

- a. The Health Officer or his designee promptly must notify the Council sitting as the Board of Health, and the County Executive, of any change in the County's transmission status. At least once daily, the Health Officer or his designee must update the County website with the County's current transmission status, including information on the total new cases per 100,000 persons in the past 7 days and the test positivity percentage during the past 7 days.

Discussed Mr. Friedson's proposed amendment to include a termination of the indoor face requirement when the County returns to a "moderate" transmission status. Mr. Riemer suggested language be added to reflect that the termination would take effect after the County achieves 14 straight days of "moderate" transmission; Mr. Jawando suggested 7 straight days of "moderate" transmission be achieved before termination of the indoor masking requirement.

Approved Mr. Friedson's motion, as amended by Mr. Jawando, to amend the resolution by inserting the following definition in paragraph 1 of the resolution:

Moderate transmission means 10-49.99 total new cases per 100,000 persons in the past 7 days or 5-7.99% test positivity during the past 7 days

and by inserting the following subparagraph 3.c. (line 44) of the resolution:

- c. The requirement to wear face coverings under subparagraph a. terminates, without further action by the Board of Health, when the County returns to a status of moderate transmission for 7 consecutive days.

Approved unanimously Mr. Friedson's motion to amend paragraph 2.b. of the resolution to as follows:

- b. Exceptions. Paragraph 2.a. does not require persons to wear Face Coverings:
 - vii. while operating any Public Transportation conveyance, provided that the person is:
 - (1) the sole operator of the conveyance, and
 - (2) located in a separate compartment that is off-limits to riders;
 - [or]
 - viii. to the extent it is necessary to observe the person's entire face to verify such person's identity for bona fide security persons; or
 - ix. when a person is giving a speech or performing for broadcast or an audience, if no one in a location accessible to the public is within six feet of the speaker.

Approved unanimously Mr. Friedson's motion concerning County employee COVID-19 prevention requirements as follows:

Insert the following findings into the preamble of the resolution:

According to clinical trials, the vaccine efficacy of the Pfizer-BioNTech Vaccine was 95.0% against symptomatic, laboratory-confirmed COVID-19 in people age 16 years and older without evidence of previous SARS-CoV-2 infection following receipt of 2 doses of Pfizer-BioNTech COVID-19 Vaccine. The vaccine efficacy of the Moderna Vaccine was 94.1% against symptomatic, laboratory-confirmed COVID-19 following receipt of 2 doses of Moderna COVID-19 Vaccine. The vaccine efficacy of the Janssen/Johnson & Johnson Vaccine was 66.3% at least 14 days after vaccination against symptomatic, laboratory-confirmed COVID-19 in persons without evidence of previous SARS-CoV-2 infection; 93.1% for the prevention of COVID-19-associated hospitalization; and 75% against all-cause death.

Vaccination against COVID-19 not only decreases the likelihood that a person will die or be hospitalized from COVID-19, but it also decreases the likelihood that an individual will spread COVID-19 to others. According to the CDC, a growing body of evidence indicates that vaccinated persons are less likely than unvaccinated persons to transmit SARS-CoV-2 to others.

The government of Montgomery County employs over 10,000 individuals, many of whom interact with and serve County residents on a daily basis. The public deserves to know that its government provides services to residents in the safest manner possible by ensuring that government employees are fully vaccinated against, or regularly tested for, COVID-19. In addition, County employees deserve to work in the safest possible work environment, where they are assured that their colleagues are fully vaccinated, or undergo regular testing, to prevent the spread of COVID-19.

Insert the following definitions under Paragraph 1 of the resolution.

County employee means an individual employed by the County, regardless of the individual's merit system status or representation by an employee organization.

COVID-19 test means a diagnostic test authorized by the Food and Drug Administration to detect whether an Individual has a SARS-CoV-2 infection.

Fully vaccinated means 14 days after having received a full dose of a COVID-19 vaccine authorized by the Food and Drug Administration, including the Pfizer-BioNTech Vaccine, the Moderna Vaccine, or the Janssen/Johnson & Johnson Vaccine.

Insert the following after line 57 of the resolution, and renumber successive paragraphs:

4. County employees – COVID-19 prevention requirements.

- a. On or before August 20, 2021, the County Executive must report to the Board of Health regarding:
 - i. an implementation plan and schedule to require each County employee who reports to work at a County facility to:
 - A. provide to the County, on a weekly basis, proof of a negative COVID-19 test; or
 - B. attest to the County that the employee is fully vaccinated against COVID-19; and
 - ii. a method by which aggregate data on County employee vaccination and County employee COVID-19 testing will be made available to the public.
- b. On or before August 31, 2021, and weekly thereafter, the County Executive must report to the Board of Health, and must make available to the public, aggregate data on County employee vaccination and County employee COVID-19 testing.

Approved, without objection, Mr. Friedson's motion to amend the resolution to reflect an effective date of August 7, 2021, at 12:00 A.M.

Discussed adding an exception to the regulation for legal smoking establishments such as cigar or hookah lounges, or requiring businesses to apply for a waiver, noting that the intent is for a very narrow exception and the need to require social distancing. Approved, unanimously, Mr. Jawando's motion to add a paragraph to the resolution to allow a business or organization to request a Letter of Approval consistent with CDC guidance for a modification to the face covering requirement.

Adopted **Resolution 19-975**, approving the Board of Health regulation to prevent the spread of COVID-19 in the County, as amended, by a roll call vote:

YEAS: Glass, Jawando, Riemer, Navarro, Rice, Friedson, Katz, Albornoz, Hucker.

Mr. Rice made the motion, which carried unanimously.

The meeting adjourned at 3:48 P.M.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.
Clerk of the Council