

State of Delaware



Executive Department
Dover

TWENTY-FIRST MODIFICATION OF THE DECLARATION OF A STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) has determined that a novel coronavirus (“COVID-19”) presents a serious public health threat, and has advised the public that asymptomatic individuals may be carriers of the COVID-19 virus and may unknowingly spread the virus to other individuals in close proximity, and therefore, social distancing is required to help mitigate the individual exposure to (and community spread of) the COVID-19 virus; and

WHEREAS, it is in the best interests of the State to protect its citizens from a public health emergency that could threaten the lives of those who live and work here; and

WHEREAS, on March 12, 2020 at 3:00 p.m. E.D.T., I issued a State of Emergency declaration due to the public health threat of COVID-19, which became effective as of 8:00 a.m. E.D.T. on March 13, 2020 (the “COVID-19 State of Emergency”); and

WHEREAS, on March 16, 2020 at 2:00 p.m. E.D.T., I issued the First Modification to the COVID-19 State of Emergency declaration to advise that the CDC issued new guidance for large

events and mass gatherings, recommending that organizers halt gatherings of fifty (50) people or more for the next eight weeks due to the public health threat of COVID-19, including conferences, social events, concerts and other types of assemblies; and

WHEREAS, on March 18, 2020 at 2:00 p.m. E.D.T., I issued the Second Modification to the COVID-19 State of Emergency declaration that modified the limitations on public gatherings of fifty (50) or more people and, among other things, placed certain restrictions on the operation of certain businesses and facilities in the State of Delaware; and

WHEREAS, on March 21, 2020 at 12:00 p.m. E.D.T., I issued the Third Modification to the COVID-19 State of Emergency declaration to close all Delaware beaches, except to persons using the beaches for exercise or to walk their dogs, subject to certain precautions recommended by the CDC on COVID-19, which became effective as of 5:00 p.m. E.D.T.; and

WHEREAS, on March 23, 2020 at 4:00 p.m. E.D.T. and 4:02 p.m. E.D.T., respectively, I issued the Fourth and Fifth Modifications to the COVID-19 State of Emergency declaration to close all non-essential businesses in Delaware, except those that can offer goods and services on the Internet, and to order a Shelter in Place for Delaware residents; and

WHEREAS, on March 24, 2020 at 4:00 p.m. E.D.T. I issued the Sixth Modification to the COVID-19 State of Emergency declaration to provide a moratorium on evictions and foreclosure proceedings to enable Delawareans to shelter in place safely, extended the presidential primary, provided for absentee balloting during the COVID-19 crisis, provided for a modified state procurement process, and placed a moratorium on cancellation of insurance policies for delay in premium payments caused by the economic uncertainty; and

WHEREAS, on March 29, 2020 at 4:30 p.m. E.D.T., I issued the Seventh Modification to the COVID-19 State of Emergency declaration to provide for the self-quarantine of travelers from areas severely impacted by COVID-19 outside the State of Delaware into the State; and

WHEREAS, on March 30, 2020 at 5:00 p.m. E.D.T., I issued the Eighth Modification to the COVID-19 State of Emergency declaration to permit a comprehensive approach to the provision of childcare in the State of Delaware during the State of Emergency to support essential workers; and

WHEREAS, on April 1, 2020 at 3:00 p.m. E.D.T., I issued the Ninth Modification to the COVID-19 State of Emergency declaration to prohibit gatherings of ten (10) or more people and increase safety precautions for businesses and their visitors; and

WHEREAS, on April 6, 2020 at 6:00 p.m. E.D.T., I issued the Tenth Modification to the COVID-19 State of Emergency declaration to further restrict the operation of non-essential businesses to limit the spread of COVID-19; and

WHEREAS, on April 10, 2020 at 3:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration, as modified; and

WHEREAS, on April 15, 2020 at 9:00 a.m. E.D.T., I issued the Eleventh Modification to the COVID-19 State of Emergency declaration to provide increased guidance and support to long-term care facilities to protect our most vulnerable populations and to permit remote notarization under limited circumstances; and

WHEREAS, on April 23, 2020 at 4:15 p.m. E.D.T., I issued the Twelfth Modification to the COVID-19 State of Emergency declaration to allow the Public Health Authority to activate more out-of-state health care workers to assist in Delaware's fight against COVID-19; and

WHEREAS, on April 25, 2020 at 4:00 p.m. E.D.T., I issued the Thirteenth Modification to the COVID-19 State of Emergency declaration to require the use of cloth face coverings in public settings where other social distancing measures are difficult to maintain, including in grocery stores and pharmacies, especially in areas of significant community-based transmission; and

WHEREAS, on April 29, 2020 at 6:00 p.m. E.D.T., I issued the Fourteenth Modification to the COVID-19 State of Emergency declaration limiting the rent that may be charged to holdover tenants and preventing landlords from charging holdover tenants with losses not covered by the expired rental agreement; and

WHEREAS, on May 7, 2020 at 10:00 a.m. E.D.T., I issued the Fifteenth Modification to the COVID-19 State of Emergency declaration to permit minimum operations by certain small businesses to begin a gradual process toward businesses reopening, and to extend deadlines for statewide, municipal, and school district elections due to the ongoing public health concerns caused by COVID-19; and

WHEREAS, on May 8, 2020 at 12:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration a second time; and

WHEREAS, on May 10, 2020 at 1:15 p.m. E.D.T., I issued the Sixteenth Modification to the COVID-19 State of Emergency declaration to suspend end-of-year evaluations for educators, professional development requirements and assessments due to the suspension of the school year caused by COVID-19; and

WHEREAS, on May 14, 2020 at 5:00 p.m. E.D.T., I issued the Seventeenth Modification to the COVID-19 State of Emergency declaration to reopen Delaware beaches, boardwalks, certain

on-premise businesses, and swimming facilities, subject to precautions needed to protect public health; and

WHEREAS, on May 18, 2020 at 12:30 p.m. E.D.T., I issued the Eighteenth Modification to the COVID-19 State of Emergency declaration encouraging virtual services but expanding the ability of houses of worship and places of religious expression to conduct in-person services with safety precautions; and

WHEREAS, on May 22, 2020 at 4:00 p.m. E.D.T., I issued the Nineteenth Modification to the COVID-19 State of Emergency declaration to allow restaurants to expand outdoor seating capacity; and

WHEREAS, on May 31, 2020 at 3:30 p.m. E.D.T., I issued the Twentieth Modification to the COVID-19 State of Emergency declaration to allow restaurants to expand outdoor seating capacity; and

WHEREAS, on June 6, 2020 at 12:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration a third time; and

WHEREAS, reopening the State in a phased approach allows for officials to continue to monitor the spread of COVID-19 and react appropriately; and

WHEREAS, the Phase 2 Reopen Plan, like the interim steps before it and like the steps taken afterwards, was formulated in close consultation with public health officials to ensure that the core principle of controlling the spread of COVID-19 is considered at a time when the State must continue to exercise heightened caution; and

WHEREAS, the Phase 2 Reopen Plan, if key indicators continue to trend downward, will be the second phase in a multi-step process of reopening Delaware's businesses and enlarging gathering sizes.

NOW, THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31 of the Delaware Code, to control and prevent the spread of COVID-19 within the State of Delaware, do hereby order that the COVID-19 State of Emergency declaration, as modified by the First through Twentieth Modifications and extended on April 10, 2020, May 8, 2020, and on June 6, 2020, shall remain in effect until further notice, with the following modifications and additions:

A. FACE COVERINGS: The Thirteenth Modification to the COVID-19 State of Emergency declaration is hereby modified as follows:

1. Paragraph 3.d. is hereby modified as noted by strikethrough:

- d. when they are in an outdoor public area, outdoor gathering or outdoor event, including state parks, golf courses, wedding receptions or graduations, if maintaining social distancing of six (6) feet between individuals of different households is impracticable; or a speaker, reader, or singer to a live audience. If face coverings or face shields are not available or cannot be used, the speaker, reader, or singer shall face away from the audience, maintain at least thirteen (13) feet of distance between themselves and the audience, or stand behind a physical barrier or partition, such as a sneeze guard. The reader, speaker, or singer must put the face covering back on and use hand sanitizer immediately after speaking, reading, or singing.

B. INDIVIDUAL OBLIGATIONS OF SOCIAL DISTANCING AND TRANSMISSION REDUCTION DURING PHASE 2:

1. Effective June 15, 2020, at 8:00 a.m. E.D.T., Paragraphs B.1, B.2., and B.3. of the Twentieth Modification related to individual obligations of social distancing and transmission reduction during Phase 1 are hereby stricken and replaced with this Twenty-First Modification and Delaware's Phase 2 Reopen Plan, including any subsequent amendments thereto. 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.

2. For the purposes of this Twenty-First 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. Individuals leaving their residence for work or other activities are advised to take the following steps to reduce transmission of COVID-19:
 - a. 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.
 - b. Wear a cloth face covering as required by the Thirteenth Modification when inside a retail establishment, such as grocery stores, pharmacies, or other public-serving businesses, or in the workplace where coming within six (6) feet of other staff is likely. A face covering must also be worn outdoors when it is not possible to maintain at least six (6) feet social distancing from other people, except for members from the same household.
 - c. Carry hand sanitizer and use it frequently.
 - d. Wash hands using soap and water for at least twenty (20) seconds as frequently as possible.
 - e. Regularly clean high-touch surfaces such as steering wheels, wallets, and phones.
 - f. Stay at home if sick.
 - g. Avoid or minimize leisure and non-essential work travel.
4. All vulnerable individuals, including those at high risk of severe illness from COVID-19, are strongly advised to continue to shelter in place. Members of households with vulnerable residents should be aware that by returning to work or other environments where distancing is not practical, they could carry COVID-19 home. Precautions should be taken to isolate oneself from vulnerable individuals.

C. SOCIAL GATHERINGS AND EVENTS IN PHASE 2: Effective June 15, 2020, at 8:00 a.m. E.D.T., Section C of the Twentieth Modification to the COVID-19 State of Emergency declaration regarding gatherings is hereby stricken and replaced with the following:

1. Phase 2 Businesses and Activities: Businesses and activities provided with specific industry guidance in Phase 2 (e.g. restaurants, casinos, hotels, convention centers, houses of worship, pools, youth sports, etc.) are excluded from the gathering requirements in Paragraphs 2 and 3 of this section, provided however, that they must comply with the stated fire occupancy requirements set forth herein (e.g. 30% or 60% (excluding staff)) and all applicable restrictions on such businesses and activities as set forth in this Modification, the Phase 2 Reopen Plan, or other applicable Division of Public Health (“DPH”) guidance.
2. Gatherings/Events up to 250 people: All gatherings or events held 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-First Modification. Gatherings or events of up to two hundred and fifty (250) people (e.g. weddings and receptions, graduations, funerals, etc.) are permitted in Phase 2 under the following conditions:
 - a. Hosts of gatherings or events should 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.
 - b. Venues interested in holding a gathering or event of up to two hundred and fifty (250) people must have a mechanism for limiting attendance, enforcing social distancing between attendees and complying with paragraphs 4-6 of the Thirteenth Modification to the COVID-19 State of Emergency declaration relating to providing face coverings for employees and signage about the use of face coverings for guests. For any indoor gathering, hosts should calculate usable capacity at thirty (30) square feet per person up to a maximum of 250 individuals.
 - 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-First 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 cloth face coverings in accordance with the requirements of the Thirteenth Modification to the COVID-19 State of Emergency declaration, and any amendments thereto.
 - 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. Gatherings/Events over 250 people: According to the CDC, gatherings of more than two hundred and fifty (250) people offer more opportunities for person-to-person contact and therefore pose greater risk of COVID-19 transmission. Social, community, recreational, and leisure events of more than two hundred and fifty (250) people (“large gatherings and events”), including but not limited to weddings, concerts, parades, festivals, conventions, fundraisers, sporting events and fairs, are hereby prohibited at all locations and venues, except that hosts of large gatherings and events may apply to host a large gathering or event by submitting a plan to covid19faq@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. Plan approval is at the discretion of the Division of Small Business which, in consultation with DPH, 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: “Gatherings/Events up to 250 People.”
 - 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>.
 2. View national data from CDC available at <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.
4. Graduation Events. A school district or charter school may apply to host a large gathering or event by submitting a plan to Secretary of Education Susan Bunting at susan.bunting@doe.k12.de.us at least seven (7) days prior to the anticipated event. A school district or charter school holding an outdoor gathering or event must also comply with any guidance posted by the Department of Education. Plan approval is at the discretion of the Department of Education, which in consultation with DPH, will consider how to prevent, reduce the spread of, and suppress COVID-19 in relation to the gathering. Non-public schools may apply to host a large gathering or event by submitting a plan to the Department of State at covid19faq@delaware.gov at least seven (7) days prior to the anticipated event.

D. PHASE 2 BUSINESS REOPENING: The provisions in this section are effective June 15, 2020, at 8:00 a.m. E.D.T. unless otherwise stated:

1. Section B of the Seventeenth Modification to the COVID-19 State of Emergency declaration related to businesses, including swimming facilities and ice cream shops, is hereby stricken.
2. Sections C, D, and E of the Nineteenth Modification to the COVID-19 State of Emergency declaration related to Phase 1 Reopening is hereby stricken.
3. Paragraphs D.5. and D.7. of the Twentieth Modification to the COVID-19 State of Emergency declaration related to Phase 1 Reopening is hereby stricken.
4. 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.
5. **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 cloth face coverings in accordance with the Thirteenth Modification of the COVID-19 State of Emergency declaration, as it may be amended from time to time, 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 cloth 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 age thirteen (13) and up are required to wear a cloth face covering in accordance with the Thirteenth Modification;
 - 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>.
- 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 to 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.

6. Determination of Maximum Occupancy. With respect to the Phase 2 Reopen Plan, maximum occupancy for a business means sixty percent (60%) of stated fire occupancy requirements, excluding employees, unless expressly stated otherwise.

7. 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>, 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.* 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 sixty percent (60%) of that establishment's stated fire occupancy requirements. Additional requirements for Food and Drink Establishments are listed in the Phase 2 Reopen Plan.
- 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.
- 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 thirty percent (30%) of that facility's stated fire occupancy requirements. 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 consumer services 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 250 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 by Section E, 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. Consider closing or closely monitoring facilities and areas where social distancing cannot be maintained (e.g., basketball courts, playgrounds). 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. *Child care.* Child care may reopen to all families, with a maximum allowable group size of fifteen (15) children. Additional requirements for child care facilities are listed in the DELACARE regulations.
- l. *Summer camp.* Summer camps and recreational camps may reopen, with a recommended allowable group size of fifteen (15) children. Any pool use during camps must comply with same guidance for Swimming Facilities as set by this Twenty-First Modification. Additional requirements for summer camps and recreational camps are listed in the DPH Recreational Camps COVID-19 Guidance.
- m. *Youth Sports and Adult Recreational Sports.* Youth sports, other types of physical activity for children, and adult recreational sports may resume, provided that all players, staff, coaches, officials and spectators must comply with social distancing guidelines of six (6) feet or more to the greatest extent possible and no tournaments are held. Tournaments include a series of games, matches or other activities where individual teams have more than one game with more than one team. Competitions may resume in Phase 2 with the exception of competitions for the following sports: football, wrestling, rugby, and hockey (ice and roller), which are considered high-risk. Basketball may only be played outside. Additional requirements for youth sports and adult recreational sports are listed in the Phase 2 Reopen Plan and the Division of Public Health Guidance on Youth Sports / Suggested Guidelines for Returning to Sports Safely During COVID-19.
- n. *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 accommodation. Commercial Lodging may continue operations or reopen, provided that the total number of guests within common areas (lobby, food and drink, etc.) 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-First 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-First Modification. Additional requirements for Commercial Lodging are listed in the Phase 2 Reopen Plan.

- o. *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.
- p. *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.
- q. *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 sixty percent (60%) 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.
- r. *Houses of Worship.* Houses of Worship may continue to offer in-person services, provided, however, that the total number of guests permitted in a House of Worship at any one time shall not exceed sixty percent (60%) of that House of Worship's stated fire occupancy requirements. Additional recommendations for Houses of Worship are listed in the Guidance for Communities of Worship.
- s. *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.
- t. *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-First 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-First Modification. Any pro shops must operate within the same parameters for Retail Establishments as set by this Twenty-First Modification.
- u. *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.

- v. *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-First 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.

- w. *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.

E. PHASE 2 LIMITED BUSINESSSES: 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 covid19faq@delaware.gov for consideration.

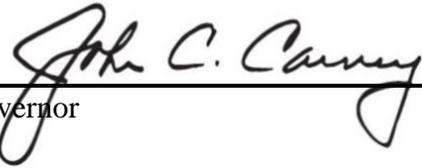
- 2. Indoor children's play areas, including softscape or hardscape playground facilities, trampoline parks and children's museums.

- 3. Water parks, unless they can create a facility-specific plan to observe the industry guidance provided for water parks, 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 covid19faq@delaware.gov for consideration. The responsibility for enforcing the occupancy limits lies with the facility operator.

F. MISCELLANEOUS:

1. 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.

APPROVED this 14th day of June 2020 at 5:00 p.m.


Governor