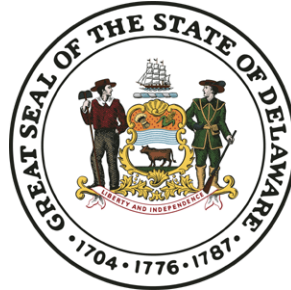


State of Delaware



Executive Department
Dover

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

WHEREAS, on September 3, 2020 at 7:00 p.m. E.D.T., I issued the Twenty-Seventh Modification to the State of Emergency, combining all active COVID-19 restrictions into a single order (as used herein the “Omnibus Modification”), a complete copy of which is incorporated herein by reference and available at <https://de.gov/27soe>; and

WHEREAS, on September 25, 2020 at 2:00 p.m. E.D.T., I issued the First Revision to the Omnibus Modification to, among other things, lift the suspension on FOIA responses and permit extension of certain state employee leave policies; and

WHEREAS, on November 5, 2020 at 2:00 p.m. E.D.T., I issued the Second Revision to the Omnibus Modification to lift additional restrictions on bar service in beach towns from Lewes down to Fenwick Island; and

WHEREAS, except as specifically set forth herein, this Revision shall in no way modify, alter or amend the remaining terms of the Omnibus Modification, all of which shall remain in full force; and

WHEREAS, Delaware continues to see an increase in new daily COVID-19 cases; and

WHEREAS, Delaware contact tracing data indicates that people testing positive for COVID visit restaurants significantly more often than gyms, salons, and other venues, and the data reflects that dining in a restaurant poses a higher risk of virus transmission when compared to other venues due to the need to remove face coverings to eat and drink; and

WHEREAS, Delaware case investigation interviews have revealed numerous incidents of spread among non-household members dining together in restaurants; and

WHEREAS, indoor restaurant and bar service commonly results in individuals, including patrons, bartenders, and servers, remaining in close contact for extended periods of time, including times when face coverings cannot be worn by patrons, and suspending or limiting such service can lessen the risk of spread between patrons at restaurants and bars; and

WHEREAS, Delaware cluster investigations have further revealed more than thirteen (13) outbreaks involving houses of worship, many of which have led to more than twenty (20) people becoming COVID positive in each outbreak; and

WHEREAS, social gatherings and events of fifty (50) or more persons, and gatherings of persons at a physical location for sheriff sales, place people at higher risk of transmission or infection of COVID-19, and the Centers for Disease Control and Prevention (CDC) recommends limitations on large events and mass gatherings to reduce the public health threat of COVID-19, including at conferences, social events, concerts and other types of assemblies; and

WHEREAS, the CDC has advised that sports competitions between teams from different states involves the highest risk of COVID-19 spread of any sports activity; and

WHEREAS, it is necessary to further restrict the operation of businesses within the State of Delaware that continue to operate to ensure adequate social distancing and proper hygiene to adequately protect life and health in light of the public health threat posed by COVID-19; and

WHEREAS, in the interest of protecting the citizens of this state from a public health threat, the Governor is authorized by law to issue an order reasonably necessary to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business, or the orders, rules, or regulations of any state agency, where strict compliance with such provisions may hinder necessary action in coping with the emergency.

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 Sections E, H, I, M, N and O are hereby modified, effective Monday, November 23, 2020 at 8:00 a.m. E.D.T., by making deletions as shown by strike through and insertions as shown by italics as follows:

E. CONSUMER PROTECTION

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.

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:

- 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. ~~A private residence where there is an indoor gathering of more than 10 people who do not reside at that property shall be considered an indoor space open to the public for purposes of this Order.~~

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, ~~except as follows~~ *and are required to comply with the following:*

- 7. Face coverings are required ~~not required at a business, indoor or outdoor space open to the public when engaged in vigorous physical activity but~~

~~must be worn while not engaged in vigorous physical activity, including weightlifting, when walking from machine to machine, or when cleaning equipment. Individuals are strongly encouraged to wear face coverings at all times while indoors at an exercise facility. Face coverings are not required at outdoor exercise facilities when engaged in vigorous physical activity.~~

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

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

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.*

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 ~~sixty percent (60%)~~ *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.

M. STATE GOVERNMENT

- 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

SOCIAL GATHERINGS AND EVENTS IN PHASE 2:

- ~~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, senior centers, 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 Twenty-Seventh Modification, the Phase 2 Reopen Plan, or other applicable DPH guidance. *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 up to 250 people: 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 ~~two hundred and fifty (250)~~ thirty percent (30%) stated fire occupancy or fifty (50) people (e.g. weddings and receptions, graduations, birthday parties, funerals, 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 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. All persons are strongly encouraged to wear a face covering while in attendance at any private indoor gathering or event.

- b. ~~Venues~~ Any business or indoor space open to the public interested in holding a gathering or event of up to ~~two hundred and fifty (250)~~ 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. ~~For any indoor gathering, hosts should calculate usable capacity at thirty (30) square feet per person up to a maximum of 250 individuals.~~
3. Outdoor Gatherings/Events over 50 people over 250 people: According to the CDC, ~~large 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.~~ *Outdoor* social, community, recreational, and leisure events of more than ~~two hundred and fifty (250)~~ 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. ~~except that hosts~~ *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 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 up to 250 people.”

- 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

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>, as follows:

- 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 ~~sixty percent (60%)~~ *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 ~~sixty percent (60%)~~ *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*. 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 ~~or participating in an approved bar game activity~~.

6. ~~Bar games such as pool, darts, pinball machines, and the like may be played as long as participants are kept six (6) feet apart at all times and wear face coverings at all times, as long as no equipment is shared and all equipment is disinfected between uses, and as long as any surfaces that participants touch are disinfected every fifteen (15) minutes to two (2) hours using an EPA approved disinfectant.~~
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 ~~under pre-Phase 1 guidelines, as long as~~ *but food and drink establishments are encouraged not to allow patrons ~~do not~~ 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 establishments 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 ~~sixty percent (60%)~~ *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. Bar service and seating at a bar may reopen as long as proper social distancing is observed between those not from the same household.~~

~~14.~~ 13. Any to-go containers for food guests bring home after dining must be protected from possible contamination.

~~15.~~ 14. Every restaurant must have its own reopening plan and must follow DPH guidance.

~~16.~~ 15. ~~Dance floors and similar spaces where social distancing is not practical may not reopen.~~ *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.

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.*

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. *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.

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 ~~two hundred and fifty (250)~~ *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.

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 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-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.

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 ~~sixty percent (60%)~~ *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*. ~~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.~~ *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 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.

O. Youth and Amateur Adult Sports

1. APPLICATION AND 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 for fourteen (14) days from the time of entry into Delaware or for the duration of the individual's presence in Delaware, whichever period is shorter.*

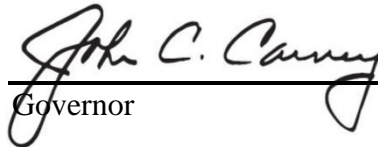
3. SUBMISSION AND APPROVAL OF PLANS.

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

7. GENERAL REQUIREMENTS

- 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.*

APPROVED this 20th day of November 2020 at 3:45 p.m.


Governor