

City of Philadelphia Law Department
M e m o r a n d u m

TO: Brian Abernathy, Managing Director
James P. Leonard, Commissioner of Records

FROM: James C. Kellett

DATE: June 10, 2020

**SUBJECT: PHILADELPHIA DEPARTMENT OF STREETS
EMERGENCY REGULATION ADDRESSING RIGHT-OF
WAY CLOSURES FOR COMMERCIAL ACTIVITY DURING
THE COVID-19 EMERGENCY EPIDEMIC EVENT**

I have reviewed the Proposed PHILADELPHIA DEPARTMENT OF STREETS EMERGENCY REGULATION ADDRESSING RIGHT-OF-WAY CLOSURES FOR COMMERCIAL ACTIVITY DURING THE COVID-19 EMERGENCY EPIDEMIC EVENT (attached) and find the proposed Regulation to be legal and in proper form. These regulations are being promulgated and effective immediately as a temporary regulation while the remaining procedures and formalities of Section 8-407 of the Philadelphia Home Rule Charter are followed, consistent with the Mayor's and Health Commissioner's May 29, 2020 "Emergency Order Allowing Limited Reopening of Businesses, Advising Philadelphians That They are Safer at Home, and Establishing Safety Measures to Prevent the Spread of 2019 Novel Coronavirus (COVID-19)."

/s/

James C. Kellett
Deputy City Solicitor

Cc: J. Barry Davis
Michael A. Carroll, P.E.

***EMERGENCY REGULATIONS ADDRESSING RIGHT-OF-WAY
CLOSURES FOR COMMERCIAL ACTIVITY DURING THE COVID-19
EMERGENCY EPIDEMIC EVENT***

Section 1 Purpose. These regulations are promulgated by the Philadelphia Department of Streets (“Department”) to support public health, safety, and economic welfare in the City during the COVID-19 emergency.

Under the Mayor’s May 29, 2020 “Emergency Order Allowing Limited Reopening of Businesses, Advising Philadelphians That They are Safer at Home, and Establishing Safety Measures to Prevent the Spread of 2019 Novel Coronavirus (COVID-19),” the City may offer additional guidance for authorizing businesses to reopen on a limited basis, including for outdoor dining and retail sales, subject to state guidance, regulations promulgated by the Department of Health thereto, and any necessary regulations promulgated by City agencies.

Consistent with the Mayor’s Order, the Department hereby promulgates the following emergency regulations:

Section 2. Right-of-Way Closures

2.1 Scope. The Department has determined that certain Rights-of-Way or portions of Rights-of-Way may be closed to vehicle traffic or parking in order to support public health and safety and shall, where deemed appropriate, issue a temporary Right-of-Way closure for commercial activity. These regulations apply to the approval of a temporary Right-of-Way closure and the use of the closed sections.

2.2 Application. A Business Improvement District (“BID”), business association, or other organization of geographically related businesses may apply for a temporary Right-of-Way closure. The business organization (“Applicant”) shall apply on behalf of businesses affected directly by the proposed temporary Right-of-Way closure.

2.2.1 Application for a temporary Right-of-Way closure shall be made on a form furnished by the Department at least five (5) business days before the proposed closure. Applicant must submit a completed application that meets the requirements of the Department as set forth in the application form.

2.2.2 The application fee shall be Twenty Dollars (\$20) per twenty (twenty) linear feet of closure requested on the plans submitted with the application.

2.2.3 Upon payment of the fee and submission of a completed application form, the Department shall issue an approval or denial within three (3) business days, unless otherwise noted by the Department at the time of application.

2.3 The Department may rescind its approval at any time upon a finding by the Department, or any other City agency, of a violation of the Philadelphia Code, the Department’s regulations, applicable regulations of another City agency, or City or State public health directives.

2.4 Time Restrictions. The duration of any temporary Right-of-Way closure shall not exceed a three (3) day period between Thursday and Saturday of any given

week, and businesses within the closure shall not operate outside the hours of seven a.m. (7am) and ten p.m. (10pm).

2.5 Coordination with the Department. The Applicant shall contact the Department at least twenty-four (24) hours before the approved temporary Right-of-Way closure to coordinate closure with the Department. The Applicant shall cooperate with the Department or other City agencies, and shall ensure that the businesses using the closed Right-of-Way follow the requirements of the approved application and directions of City agencies.

2.6 Notice to Public. The Applicant shall post written notice, provided by the Department, in conspicuous public places of the impending Right-of-Way closure at least (24) hours before said closure. Such notice shall include the start and end date of the closure.

2.7 No vehicle may park, stop, or stand in any sidewalk, parking lane, or roadway lane that has been designated for closure or for set-up or take-down of a closure, other than vehicles used by the Department for closure or subsequent reopening.

2.8 Pedestrian Accessibility. Any Right-of-Way closure shall maintain a pedestrian throughway at least six (6) feet wide throughout the length of the closure, reasonably free from any obstruction.

2.9 Police or Other Assistance. The City may require Police or other City assistance in conjunction with the temporary Right-of-Way closure.

2.10 Responsibility for Injuries to Persons or Property. No Liability to City. The Applicant shall be responsible for any injury to any person or any damage to any property resulting from or by the occupation of the Right-of-Way. The Applicant shall indemnify, release, and save harmless the City from all suits or actions of every character, name and description, brought for or on account of any injuries or damages received or sustained by any property, person or persons by or from the activities herein indicated, the occupation of the Right-of-Way thereby, negligence in safeguarding invitees, or violations of the Americans with Disabilities Act ("ADA") or any other improper act or omission of the said Applicant or Applicant's agents or employees.

Section 3 Effective Date. The Department shall implement this emergency regulation immediately and it shall become effective as of June 9, 2020.

**The City of Philadelphia, by and through its
Department of Streets**

By: 

Carlton Williams, Commissioner

Date Signed: June 9, 2020