



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: April 7, 2021
LAW DEPARTMENT: April 12, 2021
RECORDS DEPARTMENT:

**SECOND AMENDMENT TO THE CONSOLIDATED AND RESTATED
SUPPLEMENTAL EMERGENCY REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
(SPRING SAFER AT HOME ORDER)**

WHEREAS, the Pennsylvania Disease Control and Prevention Act of 1955, 1956, April 23, P.L. 1510, 35 P.S. § 52.1 *et seq.*, (the DCPA) and Chapter 6-200 of The Philadelphia Code authorize the Board of Health to establish lists of reportable diseases and conditions, and further provide that the Board and the Department of Public Health are responsible for implementing appropriate disease control and prevention measures in order to limit the spread of disease in an epidemic emergency; and

WHEREAS, Sections 6-201 through 6-206 and 6-210 of The Philadelphia Code likewise vest the Board of Health, and in times of emergency the Department of Public Health, with the authority to forbid the congregation of persons when necessary to prevent the further spread of a communicable and quarantinable disease to take such other measures as are necessary to prevent the spread of such disease; and

WHEREAS, the 2019 novel coronavirus disease, COVID-19, can cause severe disease and death, particularly in older adult and other vulnerable populations; and

WHEREAS, on March 6, 2020, in response to the emerging spread of COVID-19, the Governor of Pennsylvania issued a Proclamation of Disaster Emergency; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, or global epidemic; and

WHEREAS, on March 12, 2020, the Board by emergency regulation added COVID-19 to the City's list of reportable and quarantinable diseases; and

WHEREAS, on March 17, 2020, the Mayor and the Health Commissioner jointly issued an Emergency Order prohibiting operation of non-essential businesses to prevent the spread of COVID-19; and

WHEREAS, on March 19, 2020, the Governor and the Secretary of the Pennsylvania Department of Health issued orders requiring all non-life-sustaining businesses to close across the Commonwealth to help stop the spread of COVID-19 and the Governor and Secretary updated the aforementioned orders and list of life-sustaining and non-life sustaining businesses on March 20, 2020 and multiple times thereafter; and

WHEREAS, on March 22, 2020, the Mayor and the Health Commissioner jointly issued an Emergency Order Temporarily Prohibiting Operation of Non-Essential Businesses and Congregation of Persons to Prevent the Spread of COVID-19 (“March 22, 2020 Emergency Order”), which superseded the Emergency Order issued by the Mayor and Health Commissioner dated March 17, 2020, and which was approved as a regulation of the City by the Board on March 26, 2020, further expressly authorizing the Health Commissioner to issue such additional orders as the Commissioner determines are necessary or appropriate to limit the spread of COVID-19; and

WHEREAS, on April 23, 2020, the Governor announced a *Plan for Pennsylvania* that set residents and businesses on a path to recovery from the COVID-19 pandemic while continuing to protect life from the dangers of this deadly virus, which included, *inter alia*, Red, Yellow, and Green Phases of reopening; and

WHEREAS, the Mayor and Health Commissioner determined on May 29, 2020, that Philadelphia could move to the Yellow Phase with additional, Philadelphia-specific restrictions that would apply in addition to restrictions established by the Governor, including limitations on outdoor dining, and executed an Order entitled “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): Yellow Phase of Reopening” to implement that decision; and

WHEREAS, on or around May 28, 2020, the Department of Public Health began releasing industry specific reopening guidance for specific types of facilities, which has been periodically updated; and

WHEREAS, since that time, the Mayor and Health Commissioner, in recognition that cautious reopening with constant review of potential impacts on public health is in the best interests of Philadelphia, have issued a series of Orders gradually easing restrictions with respect to many different types of business and activities; and

WHEREAS, on June 26, 2020, the Mayor and Health Commissioner issued an order requiring the wearing of masks in many indoor and outdoor situations, and on July 1, 2020, the Governor issued a similar order; and

WHEREAS, although the Governor announced that Philadelphia was authorized to join other southeastern Pennsylvania counties in moving to the Green Phase of reopening on June 26, 2020, the Mayor and Health Commissioner, in consideration of public health data and the noted effects on public health in June and July in states that had hastily reopened, the City took a cautious approach to moving to the Green Phase; and

WHEREAS, on July 3, 2020, the Mayor and Health Commissioner issued an Order entitled “Amendment Regarding Additional Permitted Activities to the 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): Moving from Yellow Phase of Reopening to Modified Green Phase” (the “Modified Green Phase Order”), that moved the City from the Yellow Phase to a Modified Green Phase and that, among other things, generally increased the permitted capacity for outdoor gatherings and small events, the rules for which were subsequently modified by further Orders on September 15, 2020 and October 23, 2020 to allow greater capacity at such events; and

WHEREAS, after a steady decline and plateauing of daily COVID-19 case counts in Philadelphia beginning in May of this year, in the Fall daily case counts increased dramatically to levels exceeding the peak experienced in April; and

WHEREAS, in early-to-mid November the country as a whole began experiencing a sharp increase in COVID-19 case counts, repeatedly breaking daily records, and began averaging more than 2,000 daily COVID-19 deaths (using a 7-day average); and

WHEREAS, those alarming national and local trends required tailored but significant intervention to limit the community spread of COVID-19 and its attendant morbidity and mortality; and

WHEREAS, on November 16, 2020, the Mayor and Health Commissioner issued an Order entitled “Emergency Order Concerning Additional Limitations on Visiting, Gatherings, Events and Businesses for Fall/Winter 2020-21, Establishing Additional Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise that Philadelphians are Safer at Home” (the “Fall/Winter Order”) that, *inter alia*, prohibited the operation of certain indoor establishments with a demonstrated higher risk of transmission of COVID-19 and imposed additional limitations on personal gatherings, outdoor gatherings, and indoor businesses that were permitted to continue to operate effective November 20, 2020; and

WHEREAS, the Fall/Winter Order was adopted by the Board as the Eighteenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Safer at Home Fall-Winter Restrictions) on November 24, 2020; and

WHEREAS, on November 27, 2020, the Governor and Secretary of Health enacted orders imposing mitigation measures imposing density limitations, cleaning, and masking protocols, and requiring telework for all business operations unless such remote work was impossible; and

WHEREAS, at the time the Fall/Winter Order was issued the City had a higher rate of new COVID-19 cases than Pennsylvania as a whole; following the imposition of such restrictions, the City saw a notable decrease in the rate of COVID-19 cases and the City has thereafter continued to maintain a lower rate of cases than Pennsylvania as a whole, despite being the most populous City in the state; and

WHEREAS, the City saw a marked increase in COVID-19 cases following the Thanksgiving holiday with a peak on or around, December 7, 2020, but then saw a declining rate in new infections; and

WHEREAS, statewide Pennsylvania experienced a similar post-Thanksgiving holiday increase in COVID-19 cases and the Pennsylvania case count continued to increase even after the City case counts began to decline. Effective December 12, 2020, the Governor of Pennsylvania and Secretary of State imposed additional restrictions state-wide, including prohibitions on indoor dining and indoor recreation facilities, which were in place through January 4, 2021; and

WHEREAS, following such restrictions imposed at the state level, Pennsylvania then begun seeing a decline in cases; and

WHEREAS, the City anticipated that, despite restrictions, the Christmas and New Year holidays would result in additional gatherings and further spread of COVID-19 as was seen around Thanksgiving; it therefore issued an Amended Fall/Winter Order on December 30, 2021, which extended the Fall/Winter Order, with certain amendments, in order to continue to impose necessary yet tailored mitigation methods for higher risk activities through January 15, 2021. This Order was adopted as an emergency Board regulation on January 6, 2021; and

WHEREAS, following a peak the week of November 29, 2020, the City saw a 50% decline in the number of new infections per week through the week of January 3, 2021, and the positivity rate for those tested has also declined since its November peak; and

WHEREAS, beginning January 16, 2021, the Mayor and Health Commissioner determined that it was appropriate to allow indoor dining, movie theaters and performance spaces to resume operations, with necessary yet tailored mitigation methods to limit the potential spread of COVID-19; and

WHEREAS, on January 20, 2021, the Board of Health promulgated a Consolidated and Restated Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated Safer at Home Restrictions and Delegation of Authority), (“Consolidated and Restated Supplemental Emergency Regulation”), which among other things, adopted the January 15, 2021 Safer at Home Order as an emergency regulation through such order’s expiration on February 28, 2021; and

WHEREAS, on February 9, 2021, the Mayor and Health Commissioner issued an Amendment Regarding Indoor Dining Activities to the January 15, 2021 Safer at Home Order to permit increased capacity for indoor dining establishments that met certain ventilation requirements through February 28, 2021; and

WHEREAS, effective March 1, 2021, the Mayor and Health Commissioner issued a “Spring Emergency Order of 2021 Establishing Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise That Philadelphians Are Safer at Home” (the

“Spring Safer at Home Order”), which further eased restrictions, and which was amended by the Mayor and Health Commissioner’s March 5, 2021 “Amendment Regarding Gathering Sizes to the Spring Emergency Order of 2021 Establishing Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise that Philadelphians Are Safer at Home” (the “March 5, 2021 Spring Safer at Home Order Amendment”), which eased restrictions on gatherings and events to further align with contemporaneous changes to the Commonwealth’s emergency orders; and

WHEREAS, on March 1, 2021, the Governor of Pennsylvania and Secretary of the Pennsylvania Department of Health issued amended orders which operated to increase the permissible gathering and events sizes in the Commonwealth; and

WHEREAS, the City determined that it was appropriate to modify its gathering and event size limits in order to more closely align with the Commonwealth’s March 1, 2021 amendments and issued an Amendment Regarding Gathering Size to the Spring 2021 Safer at Home Order effective March 2, 2021 that continued significant restrictions on food and drink consumption at indoor gatherings and events, which was adopted by this Board as an Amendment to the Consolidated and Restated Supplemental Emergency Regulation, effective March 11, 2021; and

WHEREAS, although daily COVID-19 case counts remain high, because of social-distancing actions and compliance with the various City Orders protecting the public health, daily case counts have fallen significantly from counts in November and December; and

WHEREAS, the City has determined that it is further appropriate to modify its restrictions concerning gatherings and events to allow for food and drink consumption during certain indoor events and gatherings, and increase the number of people that can participate in outdoor gatherings with food, when certain restrictions are in place and strictly enforced, which will further align the City with the Commonwealth’s March 1, 2021 amendments and any further amendments; and

WHEREAS, the City has further determined that it is appropriate to increase capacity limits for sports stadiums under certain conditions; and

WHEREAS, the City has further determined that it is advisable to extend the Spring 2021 Safer at Home Order, as amended; and

WHEREAS, consistent with the foregoing, the Mayor and Health Commissioner issued a March 31, 2021 “Second Amendment Regarding Gatherings and Extension of Order to the Spring Emergency Order of 2021 Establishing Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise That Philadelphians Are Safer at Home” (the “March 31, 2021 Spring Safer at Home Order Amendment”); and

WHEREAS, there is substantial evidence that widespread mask use can prevent the spread of COVID-19, and observational data has suggested that people who wear masks and become infected may be less likely to develop severe disease; and

WHEREAS, inside activities, and in particular inside activities where individuals gather without masks or where individuals gather for extended periods, or both, increase the likelihood of the spread of COVID-19; and

WHEREAS, the Department of Public Health and other public health experts have identified that, although COVID-19 continues to be spread through a variety of settings and activities, social gatherings, including small social gatherings are a significant and deceptively dangerous driver of the COVID-19 pandemic; and

WHEREAS, studies have indicated and public health experts have concluded that indoor dining is a significant driver of the COVID-19 pandemic, in part because it is not possible to wear a mask while eating or drinking; and

WHEREAS, the spread of COVID-19 through outdoor gatherings and activities is less likely than through indoor gatherings and activities, but still represents a significant risk, particularly in the absence of strict mask usage, which is not possible when eating or drinking; and

WHEREAS, indoor gatherings and other activities where people remain in close proximity to individuals from other households for more than a few minutes, such as in indoor entertainment facilities, create significant opportunities for the transmission of COVID-19, particularly when compared to outdoor gatherings and indoor activities where gatherings involve greater transience and flow of people; and

WHEREAS, the number and rate of COVID-19 positive cases has continued to decline since cases peaked the week of November 29, 2020 and case rates, hospitalizations, and deaths declined rapidly in Philadelphia and across the country through most of January and February, but community spread remains high; and

WHEREAS, continued mitigation of higher risk activities is necessary to avoid preventable deaths and limit the spread of the coronavirus during this critical time in the pandemic; and

WHEREAS, the Board of Health agrees with the determinations that have been made by the Health Commissioner and has recognized that the situation involving the COVID-19 pandemic is fast moving and often requires changes to control measures both to impose additional measures and to roll back required measures when appropriate before the Board is able to meet; and

WHEREAS, consistent with the foregoing, the Board has determined it is appropriate to amend its Consolidated and Restated Supplemental Emergency Regulation to adopt the Mayor and Health Commissioner's March 31, 2021 Spring Safer at Home Order Amendment as a temporary emergency regulation effective upon delivery to the Department of Records, while the remaining procedures and formalities of Section 8-407 are followed to promulgate this amendment as a formally promulgated regulation;

NOW, THEREFORE, the Board of Health hereby adopts the following regulation, effective immediately:

1. **Adoption of March 31, 2021 Spring Safer at Home Order Amendment.** The Board hereby fully adopts the Mayor and Health Commissioner’s March 31, 2021 Spring Safer at Home Order Amendment, which is attached hereto as Attachment A.

2. **Effective dates.** The Board’s Consolidated and Restated Supplemental Emergency Regulation remains effective until expressly suspended, superseded, or repealed by the Board; provided that the restrictions in the Mayor and Health Commissioner’s Spring Safer at Home Order, as amended by the March 5, 2021 Spring Safer at Home Order Amendment and March 31, 2021 Spring Safer at Home Order Amendment, collectively adopted in the March 11, 2021 Amendment to the Consolidated and Restated Supplemental Emergency Regulation and this Second Amendment to the Consolidated and Restated Supplemental Emergency Regulation, shall expire at the end of the day April 30, 2021, unless such Spring Safer at Home Order is further extended by Order of the Health Commissioner or by further regulation of the Board of Health.

Attachment A



CITY OF PHILADELPHIA
OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

**SECOND AMENDMENT REGARDING GATHERINGS AND
EXTENSION OF ORDER TO THE**
SPRING EMERGENCY ORDER OF 2021
ESTABLISHING SAFETY MEASURES TO PREVENT
THE SPREAD OF THE 2019 NOVEL CORONAVIRUS (COVID-19) AND
CONTINUING TO ADVISE THAT PHILADELPHIANS ARE SAFER AT HOME

WHEREAS, on February 27, 2021, the Mayor and Health Commissioner issued the “Spring Emergency Order of 2021 Establishing Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise that Philadelphians are Safer at Home,” which allowed additional activities, subject to certain limitations (“Spring 2021 Safer at Home Order”); and

WHEREAS, the introductory clauses from the Spring 2021 Safer at Home Order are incorporated herein by reference; and

WHEREAS, on March 1, 2021, the Governor of Pennsylvania and Secretary of the Pennsylvania Department of Health issued amended orders which operated to increase the permissible gathering and events sizes in the Commonwealth; and

WHEREAS, the City determined that it was appropriate to modify its gathering and event size limits in order to more closely align with the Commonwealth’s March 1, 2021 amendments and issued an Amendment Regarding Gathering Size to the Spring 2021 Safer at Home Order effective March 2, 2021 that continued significant restrictions on food and drink consumption at indoor gatherings and events; and

WHEREAS, although daily COVID-19 case counts remain high, because of social-distancing actions and compliance with the various City Orders protecting the public health, daily case counts have fallen significantly from counts in November and December; and

WHEREAS, the City has determined that it is further appropriate to modify its restrictions concerning gatherings and events to allow for food and drink consumption during certain indoor events and gatherings, and increase the number of people that can participate in outdoor

gatherings with food, when certain restrictions are in place and strictly enforced, which will further align the City with the Commonwealth's March 1, 2021 amendments and any further amendments; and

WHEREAS, the City has further determined that it is appropriate to increase capacity limits for sports stadiums under certain conditions; and

WHEREAS, the City has further determined that it is advisable to extend the Spring 2021 Safer at Home Order, as amended; and

WHEREAS, pursuant to authority set forth in The Philadelphia Code and The Philadelphia Home Rule Charter, the Mayor has broad authority to set forth limitations on public activities during a state of national health emergency; and

WHEREAS, Sections 6-205 and 6-206 of The Philadelphia Code, the Disease Prevention and Control Law of 1955, 35 P.S. § 521.1 *et seq.*, and Board of Health regulations provide that the Department of Public Health may by order forbid the congregation of persons when necessary to prevent the further spread of a communicable and quarantinable disease and may take such other measures as are necessary to prevent the spread of such disease;

NOW, THEREFORE, James F. Kenney, Mayor of the City of Philadelphia, and Dr. Thomas A. Farley, Health Commissioner of the City of Philadelphia, pursuant to all authority granted under the Philadelphia Home Rule Charter, The Philadelphia Code, the Regulations of the Board of Health of the City of Philadelphia and applicable state law, hereby **ORDER** as follows:

Section A. Section 3 of the Spring 2021 Safer at Home Order, as amended effective March 2, 2021, is hereby further amended as follows (*bold italics* indicates new matter added; ~~strike through~~ indicates matter deleted):

Section 3. Permissible Gatherings and Events

Gatherings and events may take place as follows provided that they are conducted in strict compliance with all orders, regulations, and guidance of the City and Commonwealth, including those regarding food and drink consumption, masking, social distancing, size and density requirements, as well as additional requirements regarding permissible group sizes within events and gatherings as provided in this Order or as set forth in City guidance informed by Orders of the Commonwealth. In addition, if the gathering or event includes singing or other

live musical activity, such venues must also comply with guidance mandating specific spacing requirements for certain musical performers.

A. Indoor gatherings or events. Except as otherwise provided in this Order, indoor gatherings or events may take place only with the following size and density limitations:

1. Indoor gatherings and events in private homes or other spaces that do not meet the requirements of Section 3(A)(2) may consist of no more than two households.

2. Indoor gatherings and events in appropriately licensed non-residential spaces that are supervised for compliance with this order ***and all applicable City and Commonwealth regulations, orders, and guidance*** by staff at the location may take place as follows:

a. The number of individuals present is limited to 15% of the maximum occupancy of the space used, inclusive of attendees and staff; and

b. The number of attendees at a fixed-seat gathering or event is further limited to 15% of the fixed-seating capacity of the occupied space at issue.

~~c. No food or drink may be served or consumed, unless otherwise expressly authorized under this Order.~~

c. If food or drink is served or consumed the following additional restrictions apply, unless different restrictions are otherwise specified in this Order for a particular activity:

i. All participants must be preregistered and a detailed log of individuals with contact information must be maintained by the licensed business entity responsible for monitoring compliance with this Order.

ii. No music (live or recorded), dancing, or live performances are permitted.

iii. Any person addressing the gathering, such as a speaker, must be masked whenever feasible, and when not masked shall maintain a distance of at least twenty (20) feet from all other individuals.

iv. Participants must remain in their seats while eating or drinking; and must be masked while not eating or drinking.

- v. *Food and drink must be individually portioned and may only be served to participants when seated.*
- vi. *Alcohol may not be served or consumed.*
- vii. *Tables are limited to a single household.*
- viii. *All tables must be at least six feet apart from all other tables, from individuals sitting at other tables, and from individuals passing by, in all directions.*

B. Outdoor Gatherings or Events. Outdoor gatherings or events may take place only with the following density limitations, provided that if food or drink is served the maximum number of individuals at an outdoor event shall be the lesser of ~~400~~ **250** individuals, or the number calculated pursuant to subsections (B)(1) and (B)(2), unless otherwise expressly authorized under this Order:

* * *

Section B. Section 6 of the Spring 2021 Safer at Home Order, as amended effective March 2, 2021, is hereby further amended as follows (*bold italics* indicates new matter added; ~~strike through~~ indicates matter deleted):

Section 6. Sporting and Exercise Activities.

* * *

Collegiate and professional sports may operate in accordance with the ~~applicable density limits for gatherings provided in Section 3(A)(2) for indoor spaces, or 3(B) for outdoor spaces, as applicable; provided that teams that do not maintain 100% mask compliance for practices or games, and venues that serve food or drink to spectators, may only~~ *requirements of Section 3; provided that to the extent provided in an approved health and safety plan, the applicable density limits for sports stadiums may be up to 20% of the maximum occupancy of the space used, inclusive of attendees and staff for indoor spaces, and up to 25% for outdoor spaces; and provided further that such collegiate and professional sports shall only* operate pursuant to health and safety plans specifically approved by the Department of Public Health.

Section C. Section 11 of the Spring 2021 Safer at Home Order, as amended effective March 2, 2021, is hereby amended as follows (*bold italics* indicates new matter added; ~~strike through~~ indicates matter deleted):

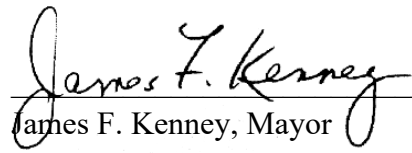
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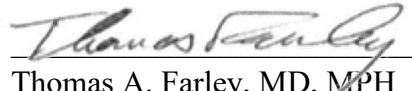
Section 11. Interpretation and Implementation.

E. This Order shall be effective on **March 1, 2021 at 12:00 a.m.**, and shall expire on ~~April 14 at 11:59 p.m.~~, **April 30, 2021 at 11:59 p.m.**, unless otherwise rescinded, superseded, or amended by further Order.

Section D. This Second Amendment to the Spring 2021 Safer at Home Order shall be effective on **April 4, 2021**, and shall remain in effect until rescinded, superseded, or amended by further Order.

Date: March 31, 2021


James F. Kenney, Mayor
City of Philadelphia


Thomas A. Farley, MD, MPH
Health Commissioner
City of Philadelphia