



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: April 29, 2020
LAW DEPARTMENT: April 30, 2020
RECORDS DEPARTMENT:

**EMERGENCY REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
PERTAINING TO FINES AND PENALTIES**

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, on March 6, 2020, in response to the 2019 novel coronavirus disease, 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 11, 2020, the Mayor of Philadelphia issued a Declaration of Extraordinary Circumstance that allows City regulations related to addressing the pandemic to become effective immediately upon transmission to the Department of Records; and

WHEREAS, on March 12, 2020, the Board of Health amended the Department's *Regulations Governing the Control of Communicable and Non-communicable Diseases and Conditions* to, among other things, add COVID-19 to the City's list of reportable and quarantinable diseases; and

WHEREAS, on March 12, 2020, the Health Commissioner issued an Emergency Order that forbids gatherings of 1,000 or more persons to prevent the spread of COVID-19; 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 of Pennsylvania ordered that the Commonwealth of Pennsylvania ordered all non-life-sustaining businesses in Pennsylvania to close their physical locations to slow the spread of COVID-19 and the Governor updated that order and list of life-sustaining and non-life sustaining businesses several times;

WHEREAS, on March 22, 2020, the Mayor and the Commissioner jointly issued an Emergency Order Temporarily Prohibiting Operation of Non-Essential Businesses and Congregation of Persons to Prevent the Spread of COVID-19, which superseded the Emergency Order issued by the Health Commissioner dated March 12, 2020, which forbade mass gatherings, and the Emergency Order issued by the Mayor and Health Commissioner dated March 17, 2020, which prohibited operation of non-essential businesses; and

WHEREAS, on March 26, 2020, the Board of Health approved an Emergency Regulation Governing the Control and Prevention of COVID-19, effective March 27, 2020, which adopted the Mayor and the Health Commissioner’s March 22, 2020 Emergency Order and expressly authorized the Health Commissioner to issue such additional orders as the Commissioner determines are necessary or appropriate control or prevention measures to limit the spread of COVID-19 (effective March 27, 2020); and

WHEREAS, on April 8, 2020, the Commissioner issued an Emergency Order Concerning Operation of Long-Term Care Facilities and Activities of Residents to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), and on April 23, 2020, the Board of Health adopted that order by regulation (effective April 23, 2020); and

WHEREAS, on April 15, 2020, the Secretary of Health of the Commonwealth of Pennsylvania issued an Order requiring comprehensive safety measures to be employed in all businesses maintaining physical operations, including standards for cleaning and disinfecting high-touch areas, establishing protocols for businesses exposed to probable or confirmed cases of COVID-19, limiting the numbers of employees on the premises and ensuring access to protective and sanitary equipment and supplies; and

WHEREAS, on April 20, 2020, the Governor and the Secretary of Health of the Commonwealth issued amendments to their March 19, 2020 orders concerning the closure of business that are non life sustaining to authorize, inter alia, “limited construction activity” that would be authorized to commence in-person operations beginning on May 8, 2020, provided such activity followed strict guidance related to mitigation measures described by the federal Centers for Disease Control and Prevention and the requirements of the Pennsylvania Secretary of Health’s April 15, 2020, Order “Directing Public Health Safety Measures for Business Permitted to Maintain In-person Operations”; and

WHEREAS, on April 23, 2020, the Governor issued a document entitled “Guidance for Businesses in the Construction Industry Permitted to Operate During the COVID-19 Disaster Emergency,” which stated that, absent the establishment or maintenance of more stringent requirement by local governments, such limited construction activity could begin on May 1, 2020, which provided additional detail regarding safety and mitigation measures required to be followed in connection with such construction activity; and

WHEREAS, on April 29, 2020, the Mayor and the Health Commissioner issued an Order that authorized the resumption of certain construction activity in Philadelphia, consistent with strict safety and mitigation requirements intended to limit risks related to the spread of COVID-19, including incorporation of requirements set forth in the Governor and Secretary of Health’s April 15, 2020, and April 20, 2020 Orders, the April 23, 2020 Governor’s Guidance document and

related national Centers for Disease Control and Prevention guidance, which Order was adopted as a regulation by the Board on April 29, 2020; and

WHEREAS, COVID-19 is easily transmitted, especially in group settings, including by people with no symptoms or mild symptoms who may unknowingly spread the disease to others; and

WHEREAS, COVID-19 may remain viable for hours to days on surfaces made from a variety of materials located in businesses and other places, thus contaminating certain property and places; and

WHEREAS, COVID-19 can cause severe disease and death, and older adult and other vulnerable populations are at particularly high risk; and

WHEREAS, scientific evidence shows that preventing unnecessary close contact of individuals is an effective way to mitigate the spread of communicable diseases like COVID-19; and

WHEREAS, given the imminent and emerging threat of COVID-19, the Department previously respectfully requested that the Mayor suspend the requirements of Section 8-407 of the Philadelphia Home Rule Charter and allow regulations concerning COVID-19, a category which includes the instant regulation, to be promulgated as a temporary regulation while the procedures of Section 8-407 are complied with simultaneously, and the Mayor signed such a declaration on March 11, 2020; and

WHEREAS, Section 6-103(2) of The Philadelphia Code authorizes the Board of Health to establish by regulation fines of up to \$2,000 for a violation of any regulation of the Board; and

WHEREAS, consistent with such declaration, the Board hereby promulgates the below Emergency Regulation Governing the Control and Prevention of COVID-19 as a temporary regulation effective upon delivery to the Department of Records, while the remaining procedures and formalities of Section 8-407 are followed to promulgate the amendment as a permanent regulation;

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

1. The following fines and penalty provisions are applicable to enforcement of any of the following regulations, as well as any other additional regulations or amendments that may be promulgated by the Board concerning the conduct of individuals, businesses or any entity with respect to management of the COVID-19 emergency:

- The Board's *Regulations Governing the Control of Communicable and Non-communicable Diseases and Conditions* (approved by the Board on March 12, 2020) that added COVID-19 to the list of reportable and quarantinable communicable diseases;

- The Board’s *Emergency Regulation Governing the Control and Prevention of COVID-19* (approved by the Board on March 26, 2020) that adopted the Mayor and Health Commissioner’s March 22, 2020 Business Closure and Stay-at-Home Order;
 - The Board’s *Second Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Long-Term Care Facilities)* (approved by the Board on April 22, 2020); and
 - The Board’s *Third Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Authorized Construction Activity)* (approved by the Board on April 29, 2020).
2. The penalty for a violation by a business of a prohibition against operation, or of a prohibition that substantially limits operation, shall be a fine of \$2,000 per day, per violation.
 3. The penalty for a violation by a business of any other aspect of any of the regulations covered by this order shall be a fine of \$2,000 per violation.
 4. The penalty for a violation by an individual of any other aspect of any of the regulations covered by this order shall be a fine of \$500 per violation.
 5. In the discretion of an enforcement officer, the violator may be provided a notice of violation, pursuant to the requirements of Section 1-112 of The Philadelphia Code, that authorizes the violator to admit the violation and remit the required amount in order to waive appearance in Municipal Court to contest the violation (the “Remittance Amount”). The Remittance Amount shall be as follows:
 - a. \$700 for violations subject to a \$2,000 penalty; and
 - b. \$250 for violations subject to a \$500 penalty.
 6. Such fines shall be in addition to any other applicable remedy provided by law, including orders to cease operations, stop-work orders, the revocation of permits or license, or injunctive relief.
 7. Criminal penalties may be imposed, where applicable.