



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: March 10, 2021
LAW DEPARTMENT: March 11, 2021
RECORDS DEPARTMENT:

**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), (“2021 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, 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 City has imposed and rolled back restrictions as has been necessitated by the ebbs and flows of the pandemic within the past year, as detailed above, each of which beginning with the March 22, 2020 Emergency Order were adopted by this Board as emergency regulations; and, consistent with the determination that further easing of restrictions was appropriate, on January 15, 2021 the Mayor and Health Commissioner issued a “Restated and Consolidated 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 “January 15, 2021 Safer at Home Order”), which restated, consolidated, and amended the series of emergency orders jointly issued by the Health Commissioner and Mayor imposing public health restrictions responsive to the COVID-19 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 Emergency Regulation to adopt the Mayor and Health Commissioner’s Spring Safer at Home Order and March 5, 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 Spring Safer at Home Order and Amendment.** The Board hereby fully adopts the Mayor and Health Commissioner’s Spring Safer at Home Order, which is attached hereto as Attachment A, and the Mayor and Health Commissioner’s March 5, 2021 Spring Safer at Home Order Amendment, which is attached hereto as Attachment B.

2. **Effective dates.** The Board’s Consolidated and Restated 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, collectively adopted in this Amendment to the Consolidated and Restated Emergency Regulation, shall expire at the end of the day April 14, 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

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, 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 City's Board of Health 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 of Health 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 City’s 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 of Health 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 are 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, 2020, 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 of Health 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, the positivity rate for those tested 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, 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 success of the restaurant industry is important to the economy of Philadelphia overall, and the Mayor and Health Commissioner subsequently determined that it was appropriate to modify the occupancy limitations on indoor dining activities when certain ventilation requirements were followed; 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 29th 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 City has entered various orders imposing and rolling back restrictions as has been necessitated by the ebbs and flows of the pandemic within the year, as detailed above, and has determined at this time that it is appropriate to further ease restrictions; and

WHEREAS, at this time the City has further determined that it is appropriate to adjust certain density requirements to more closely align to the realities of the occupancy of certain spaces, specifically with respect to activities that take place in office spaces; 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 1. Relationship to Prior COVID-19 Emergency Orders

This Order replaces and supersedes the Restated and Consolidated Emergency Order of 2021 Establishing Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Contusing to Advise that Philadelphians are Safer at Home, as amended. This Order does not replace or supersede emergency orders issued by the Health Commissioner that were not joint orders with the Mayor, including, but not limited to:

1. The Emergency Order Concerning Mandatory Reporting of Certain Data to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), adopted by the Board of Health as the Sixth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Mandatory Data Reporting Order).
2. The Second Emergency Order Concerning Mandatory Reporting of Certain Data to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), adopted by the Board of Health as the Tenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Second Mandatory Data Reporting Order).
3. The Emergency Order Concerning Isolation Safety and Transfer Requirements for Long-Term Care Facilities and Hospitals to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), adopted by the Board of Health as the Seventeenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Long-Term Care Isolation Safety and Transfer).

Section 2. Definitions.

For purposes of this Order:

A. “Gathering” means any pair or group of individuals who reside in different households who are in close proximity of one another for more than several minutes.

A. “Indoor” means a location enclosed by three or more walls or other non-permeable barriers and an overhead covering, such as a roof or a tent top. Tents with one side open are considered indoor spaces. In contrast, a space that is fully open on two or more sides is considered an outdoor space.

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, and density requirements, as further specified below. 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 as follows:

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 by staff at the location may take place up to the following gathering size limitations, provided no food or drink is served or consumed:

<i>Maximum Occupancy</i>	<i>Allowable Indoor Rate</i>
0 – 2,000 people	10% of Maximum Occupancy
2,001 – 10,000 people	5% of Maximum Occupancy up to 500 people

B. **Outdoor Gatherings or Events.** Except as otherwise provided in this Order, outdoor gatherings and events are permitted with the following gathering size limitations, provided food or drink is not served or consumed:

<i>Maximum Occupancy</i>	<i>Allowable Outdoor Rate</i>
0 – 2,000 people	15% of Maximum Occupancy
2,001 – 10,000 people	10% of Maximum Occupancy
Over 10,000 people	5% of Maximum Occupancy up to 2,500 people

If no maximum occupancy is posted, the maximum occupancy of the outdoor space (which shall be multiplied by the allowable outdoor rate to arrive at the allowable occupancy pursuant to this order) shall be considered 67 people per 1,000 square feet of occupiable space.

Outdoor gatherings and events at which food or drink is served or consumed may take place only if the above density limits and all other applicable guidance are followed and the gathering or event consists of 100 or fewer people, inclusive of staff if applicable.

C. For events or gatherings that take place in both indoor and outdoor portions of a facility, the outdoor limitations apply to the portions of the facility that are outdoors, and the indoor limitations apply to the portion that is indoors.

Section 4. Remote Work Requirements and In Person Operations

A. Where in-person work is authorized under the applicable orders of the Governor of Pennsylvania and the Secretary of the Department of Health, all such in-person operations must be conducted in strict compliance with all applicable orders, regulations, and guidance of the City and Commonwealth, including orders and guidance applicable to the specific business or activity, including masking, social distancing, and density requirements.

Section 5. Limitations for Specific Businesses and Other Activities.

In addition to all other requirements of this Order, which apply to all businesses and activities, including the face covering and social distancing requirements provided in Section 9 of this Order, the following businesses and activities are permitted only in compliance with the following additional restrictions, and only if all applicable Commonwealth and City guidance, is strictly followed. City guidance applicable to particular businesses and activities is available at <https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/guidance/guidance-documents/#/>.

Unless a different density limit is specifically provided, activities, and businesses that are allowed to operate indoors under Sections 4 and 5 of this Order are subject to the following density limits:

(1) A maximum of 20 people per 1,000 square feet of occupiable space. These density limits include all persons present in a space, including all workers and any in-person clientele.

(2) Office locations, a maximum of 2 people per 1,000 square feet, except as follows:

i. As otherwise provided in a health and safety plan approved by the Department where it is impossible to accommodate the office workforce through a combination of remote and in-person work.

ii. Upon certification by an HVAC maintenance company or the owner or manager that an office space has met the ventilation standards for offices as provided in Department of Health guidance, a maximum of 4 people per 1,000 square feet. Such certification and any supporting paperwork must be kept onsite and is subject to inspection. Such approval may be revoked based upon City inspection or other evaluation of the accuracy of the certification.

For allowable businesses or activities that take place in multiple spaces within a single facility, the density limit for office spaces applies to those spaces that are offices.

A. Educational Settings.

In person instruction is permitted in all child daycare settings and all educational settings, including colleges universities and all other types of vocational, trade or other classroom-based educational programs, provided they must remain in strict compliance with all applicable City and Commonwealth orders and guidance, including masking, social distancing, and density requirements, as well as gathering size limitations and specific guidance applicable to non-instructional periods.

B. Non-Restaurant Retail and Personal Service Establishments. Retail and personal care service establishments, as well as indoor malls, may operate, subject to all applicable City and Commonwealth orders and guidance, including density, social distancing and masking requirements.

C. Gyms and Indoor Exercise Facilities. Operation of gyms and indoor physical recreation and exercise facilities are generally permitted, provided that classes, practices, informal sports activities, and similar group activities must be limited to no more than 15 participants and all distancing requirements and applicable guidelines must be followed.

D. Recreational facilities. Indoor recreational facilities, such as pool halls, arcades, laser tag facilities, bowling alleys, and casinos may operate, provided no eating, drinking, or smoking is permitted on site to assure 100% compliance with masking requirements.

Skating rinks, trampoline parks, bowling alleys, and other recreational facilities involving significant physical exertion may operate with a maximum occupancy of 10 people per 1,000 square feet of occupiable space.

E. Theaters and Performance Venues. Indoor theaters, including movie theaters and live performance venues, may operate subject to the indoor gathering and event density limits in Section 3(A)(2). In addition to the basic social distancing requirements, live performance venues must also comply with guidance such as mandating specific spacing

requirements for certain performers. Indoor theaters may not allow smoking, and indoor theaters that do not have assigned seating may not allow eating or drinking on-site in order to achieve 100% mask compliance.

Indoor theaters and performance venues with assigned seating may allow food and drink on site, provided that eating and drinking occurs only while individuals are seated in their assigned seats in groups of four or fewer from the same household, and individuals are reasonably required to remain seated in such assigned seats for the duration of the performance.

Outdoor theaters and performance venues may operate subject to the outdoor gathering and event density limits in Section 3(B). Outdoor theaters and performance venues with assigned seating may allow food and drink onsite, without the 100 person limit that is otherwise applicable, provided that eating and drinking occurs only while individuals are seated in their assigned seats in groups of six or fewer, and individuals are reasonably required to remain seated in such assigned seats for the duration of the performance.

The provisions set forth in this subsection E, apply to any facility while such facility is serving in the capacity of a theater or performance venue, regardless of whether the facility is used for other purposes on other occasions.

F. Other cultural institutions. Museums, libraries, and the Philadelphia zoo may operate, subject to all applicable safety requirements and guidelines, provided that internal theater and similar spaces may only be utilized subject to the additional limitations for theaters provided above. Food may only be served or eaten indoors inside designated eating areas such as a cafe, provided that there is strict compliance with applicable guidance in any such spaces.

G. Houses of worship and funeral homes. Houses of worship and funeral homes may operate but may not allow eating, drinking, or smoking on-site in order to achieve 100% mask compliance, subject to the density requirements provided in Section 3(A)(2), Section 5(1), or 20% of maximum occupancy, whichever is least restrictive. In addition to the basic social distancing requirements, if the facility includes singing or other live musical activity, such venues must also comply with guidance mandating specific spacing requirements for certain musical performers.

I. Senior Activity Centers. Senior activity centers may operate but may not allow eating, drinking, or smoking onsite in order to achieve 100% mask compliance. All staff and attendees must either wear KN-95 masks (or equivalent) or double mask (fitted cloth mask over procedural mask). Senior Activity Centers are limited to the lesser of twenty-five (25) individuals per group and ten (10) persons per 1,000 square feet of occupiable space.

J. **Adult Day Care Centers.** Operation of older adult daily living centers, colloquially referred to as Adult Day Care Centers, that are required to be licensed by the State of Pennsylvania under the Older Adult Daily Living Centers Licensing Act, remain prohibited at this time.

Section 6. Sporting and Exercise Activities.

Formally organized sports competition is permitted, subject to all applicable health and safety requirements, including the face covering and social distancing requirements in Section 9, and all applicable guidance. Spectators are permitted at sporting activities, in accordance with the applicable density limits for gatherings as provided in Section 3, provided no food or drink is served to spectators at such events.

Collegiate and professional sports seeking to serve food to spectators may operate solely pursuant to health and safety plans specifically approved by the Department of Public Health.

Section 7. Restaurants and Catering

A. **Outdoor Dining at Restaurants.** Outdoor dining service may continue with the following restrictions:

1. Outdoor dining is limited to no more than six people per table.
2. No outdoor dining service for unseated customers is permitted.
3. Customer seating for outdoor dining must remain entirely outside of the indoor portion of the premises. Dining at portions of the indoor space open in some respects to the outside, such as by open windows, is not outdoor dining.
4. All permitting, licensing and other requirements and limitations of City and Commonwealth law applicable to restaurants and food establishments, including with respect to outdoor dining and authorized locations for such activities, remain in place and are not superseded or impacted by this Order.

B. **Indoor Dining at Restaurants.** Indoor on-site dining activities at restaurants, cafes, and retail food service businesses may operate subject to the following:

1. Servers must wear both face shields and masks indoors.
2. Indoor dining parties are limited to 4 or fewer people at a table.

3. Persons at a given table may be from no more than one household.
4. Former smoking or vaping areas must remain closed.
5. Service at bars within restaurants remains prohibited.
7. Alcohol can be served for on-premises consumption only when in the same transaction as a meal.
8. Businesses must adjust work assignments to ensure employees can stay six (6) feet from each other throughout their shifts.
9. Occupancy limits and spacing requirements:
 - a. Indoor occupancy must be limited to 25% of the stated fire code occupancy for seated dining, except as follows:
 - i. Upon certification by an HVAC maintenance company or the restaurant owner or manager that a restaurant has met the following ventilation standards, through submission of a completed certification to the Department of Public Health in a form and manner as established by the Department, and notification of approval of such certification by the Health Department, indoor occupancy at 50% of the stated fire code occupancy for seated dining is permitted. Such approval may be revoked based upon City inspection or other evaluation of the accuracy of the restaurant certification.
 - ii. Ventilation Standards:
 - (1) If an HVAC system or standalone ventilation unit is in use:
 - HVAC system must be fully operational and must ventilate entire indoor dining area;
 - HVAC system must circulate at least 20% outside air;
 - Filtration in use must be MERV 11 or higher;
 - Exhaust vent must have a minimum 6-foot clearance; from tables, chairs or other furniture or equipment; and
 - System must provide as least 15 air exchanges per hour.
 - (2) If window fans are used instead of an HVAC system:
 - System must provide at least 15 air exchanges per hour.
 - b. Tables must be arranged as follows: Customers sitting at a table must not be within six feet of any customer sitting at another table or customers passing by, in all directions.

10. All permitting, licensing and other requirements and limitations of City and Commonwealth law applicable to restaurants and food establishments, including with respect to authorized locations for such activities remain in place and are not superseded or impacted by this Order.

Section 8. Construction. Construction activities continue to be governed by the April 29, 2020, “Authorization for Conduct of Certain Construction Activity Currently Prohibited by the March 22, 2020 Emergency Order,” as it has been and may subsequently be amended by, *inter alia*, the May 26, 2020 “Relaxation of Certain Restrictions on Construction, Real Estate Businesses, Walk-Up Food Service Ordering and Mobile Food Venders Currently Prohibited by the March 22, 2020 Emergency Order,” and the July 24, 2020 “Emergency Regulation Modifying Restrictions Regarding the Number of Workers Permitted on Site During Authorized Construction Work under Certain Conditions,” and any City regulations adopted in connection with such Orders.

Section 9. Generally Applicable Requirements for Social Distancing and Face Coverings.

A. **Social Distancing.** Specific social distancing requirements are provided in guidance applicable to the specific businesses or activity at issue. If no specific guidance applies participants must maintain at least six (6) feet of space between individuals; sanitize frequently touched surfaces often; frequently wash hands with soap and running water for at least twenty (20) seconds or using hand sanitizer, refraining from shaking hands; and cover coughs or sneezes with a sleeve or elbow (not hands).

B. **Face Coverings Required.**

1. Except as provided in paragraph 2, “Exceptions,” all individuals must wear face coverings, such as cloth face masks, scarves, bandannas or other material, as recommended by the Centers for Disease Control (CDC). Individuals are required to wear face coverings properly, which means in a manner that fully covers the mouth and nose, consistent with applicable guidance, at all times when they are:

- a. at any indoor location where members of the public are generally permitted;
- b. in the same room with or otherwise in the company of a person who lives in a different household, whether indoors or outdoors; or
- c. likely, in the near future, to encounter a person from another household, whether indoors or outdoors.

2. Exceptions.

a. This Section 9(B) is not applicable to the following individuals:

1. Any child younger than 2 years of age.
2. Any individual who has a physical disability that prevents easily wearing or removing a face covering.
3. Any individual who is deaf and uses facial and mouth movements as part of communication.
4. Any individual who has been advised by a medical professional that wearing a face covering may pose a risk to that individual for health-related reasons.
5. Any individual who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.

b. Other exceptions.

1. Face coverings are not required to be worn when eating or drinking, however individuals are reminded to maintain appropriate social distance of at least six feet from all individuals from other households.
2. Face coverings are not required when an individual is alone in an office or a similar location that is completely separated from other individuals by floor to ceiling physical barriers.

Section 10. Additional Responsibility for Masking, Density, and Signage Requirements.

A. The owner, operator or host of any business, facility, workplace or gathering or event location shall also be liable and subject to fines and penalties under this Order for non-compliance by employees, customers, members, visitors and any other occupants of the business, facility, workplace or gathering or event location with the following, subject to fines and all other remedies under this Order:

1. All applicable masking requirements under this Order, or any other applicable guidance documents; and

2. All applicable size and density limitations, as well as social distancing requirements, as established under this Order or any other applicable order or guidance document; and

3. This liability shall be in addition to the personal responsibility and liability of individual employees, customers, members, visitors and other occupants of the business, facility, workplace or event location under this and all other emergency health orders or Board of Health regulations concerning the control and prevention of COVID-19

B. The owner, operator or host of any business, facility, workplace or gathering or event location shall specifically required to ensure that number of persons present in a given space remains below the applicable permissible density and maximum person requirements at all times by controlling entry into the relevant space, counting the number of persons entering, and refusing entry when the limit is met. For businesses, facilities, workplaces, gatherings or events that take place in multiple locations, spaces, or rooms, the number of persons permitted in each such location, space, or room must be monitored.

C. The owner, operator or host of any business, facility, workplace or gathering or event location is required to prominently display signage advising of health and safety requirements in accordance with applicable guidance of the Department of Public Health.

Section 11. Interpretation and Implementation.

A. Except to the extent of a direct conflict, this Order shall be interpreted as consistent with applicable orders and requirements of the Commonwealth of Pennsylvania. In the event of a direct conflict, the most restrictive order or requirement controls. The City shall continue reviewing inquiries and submissions regarding the applicability of the City's orders to businesses and activities.

B. Consistent with prior emergency health orders of the City, this Order does not apply to government operations of the City of Philadelphia. Individuals interacting with government officers and employees must comply with the requirements of this Order and other City orders and guidance.

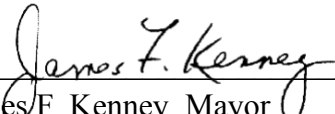
C. The owners, operators and individuals in possession of any facility subject to this Order must allow inspection of ongoing operations as a condition of operation.

D. Failure to comply with this Order shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other remedies as provided for by law, including such penalties and remedies set forth in the April 29, 2020 Emergency Regulation of


the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties (providing for fines of up to \$2,000 per violation for businesses and \$500 per violation for individuals).

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.**, unless otherwise rescinded, superseded, or amended by further Order.

Date: February 27, 2021



James F. Kenney, Mayor
City of Philadelphia



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

Attachment B



CITY OF PHILADELPHIA
OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

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

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, 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, 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 has determined that it is appropriate to modify its gathering and event size limits in order to more closely align with the Commonwealth’s recent amendments; 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 is hereby replaced with the following:

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 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.

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 100 individuals, or the number calculated pursuant to subsections (B)(1) and (B)(2), unless otherwise expressly authorized under this Order:

1. The number of individuals present is limited to 20% of the maximum occupancy of the space used, inclusive of attendees and staff. If no maximum occupancy is posted or reasonably ascertainable, the permitted density for outdoor gatherings shall be 13 people per 1,000 square feet of occupiable space.

2. The number of attendees at a fixed seat gathering or event is further limited to 20% of the fixed seating capacity of the occupied space at issue.

C. Other Provisions. The size and density limitations set forth above are calculated proportionally based upon the portion of a venue occupied for the gathering or event at issue. For events or gatherings that take place in both indoor and outdoor portions of a facility, the outdoor limitations apply to the portions of the facility that are outdoors, and the indoor limitations apply to the portion that is indoors.

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

Section 6. Sporting and Exercise Activities.

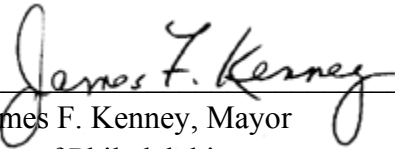
Formally organized sports competition is permitted, subject to all applicable health and safety requirements, including the face covering and social distancing requirements in Section 9, and all applicable guidance.

Spectators are permitted at ~~sporting~~ ***such sports*** activities, in accordance with the applicable density limits for gatherings as provided in Section 3, provided no food or drink is served to spectators at such events.

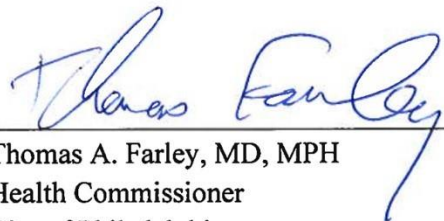
Collegiate and professional sports ~~seeking to serve food to spectators~~ may operate ***in accordance with the applicable density limits for gatherings provided in Section 3(A)(2) for indoor spaces, or 3(B) for outdoor spaces, as applicable; provided that teams that do not maintain 100% mask compliance for practices or games, and venues that serve food or drink to spectators, may only operate solely*** pursuant to health and safety plans specifically approved by the Department of Public Health.

Section C. This Order shall be effective on **March 2, 2021**, and shall remain in effect through the expiration of the Spring 2021 Safer at Home Order.

Date: March 5, 2021



James F. Kenney, Mayor
City of Philadelphia



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