



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

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

**THIRD SUPPLEMENTAL EMERGENCY REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
(AUTHORIZED CONSTRUCTION ACTIVITY)**

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 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 16, 2020, the Governor of Pennsylvania announced that the Commonwealth of Pennsylvania was imposing mitigation efforts to curtail the spread of COVID-19 uniformly across the Commonwealth, calling upon nonessential businesses (excluding business such as grocery stores and medical facilities) to close beginning at midnight Tuesday March 17, 2020; and

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

WHEREAS, on March 19, the Governor and the Secretary of the Pennsylvania Department of Public Health issued orders requiring all non-life-sustaining businesses to close across the Commonwealth, to help stop the spread of the virus and the Governor and Secretary updated the aforementioned orders and list of life-sustaining and non-life sustaining businesses on March 20, 2020 and again on March 21, 2020; and

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Prohibiting Operation of Non-Essential Businesses and Congregation of Persons to Prevent the Spread of COVID-19, which superseded the Emergency Order issued by the Mayor and Health Commissioner dated March 17, 2020, which prohibited,

inter alia, most construction work in Philadelphia (the “March 22, 2020 Prohibition on Non-Essential Business”); and

WHEREAS, on March 23, 2020, the Governor of Pennsylvania issued a Stay at Home Order that applies to Philadelphia and numerous surrounding counties; and

WHEREAS, on March 26, 2020, the Board of Health approved an Emergency Regulation Governing the Control and Prevention of COVID-19, 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; 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 no 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, Sections 6-205 and 6-206 of The Philadelphia Code 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; and

WHEREAS, the Mayor of the City of Philadelphia and the Health Commissioner have determined that, in order to allow limited economic activity to protect existing construction sites, and to protect jobs and investment in the City, within strict limitations appropriate to the situation and the need to limit the spread of COVID-19, construction activity may resume in the City on the bases outlined in an Order signed this day, April 29, 2020, entitled “Authorization for the Conduct of Certain Construction Activity Currently Prohibited by the March 22, 2020 Emergency Order

Temporarily Prohibiting Operation of Non-Essential Businesses And Individual Activity to Prevent the Spread of 2019 Novel Coronavirus (COVID-19)”; and

WHEREAS, the Board of Health agrees with that determination, and the extensive safety and mitigation measures incorporated within the Order, as an appropriate balance of resumption of limited economic activity and the maintenance of precautions and measures appropriate to prevent the spread of COVID-19; and

WHEREAS, consistent with the foregoing, the Board hereby promulgates the below Third Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Authorized Construction Activity) 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. This Emergency Regulation supplements the Philadelphia Department of Public Health’s *Regulations Governing the Control of Communicable and Non-communicable Diseases and Conditions* and its other emergency regulations governing the control and prevention of COVID-19.

2. The Board hereby fully adopts the April 29, 2020, Order of the Mayor and Health Commissioner entitled “Authorization for the Conduct of Certain Construction Activity Currently Prohibited By The March 22, 2020 Emergency Order Temporarily Prohibiting Operation of Non-Essential Businesses And Individual Activity to Prevent the Spread of 2019 Novel Coronavirus (COVID-19),” which is attached hereto, as Attachment A.

3. The Board further authorizes the Health Commissioner to issue additional orders to provide for the implementation of such further measures related to the April 29, 2020 Order and this regulation as the Health Commissioner determines in good faith are necessary or appropriate control or prevention measures to limit the spread of COVID-19.

4. This Emergency Regulation shall be effective upon filing with the Department of Records and remain effective until expressly superseded or repealed by the Board at the conclusion of the COVID-19 emergency.

Attachment A



CITY OF PHILADELPHIA
OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

**AUTHORIZATION FOR THE CONDUCT OF CERTAIN CONSTRUCTION
ACTIVITY CURRENTLY PROHIBITED BY THE MARCH 22, 2020
EMERGENCY ORDER TEMPORARILY PROHIBITING OPERATION OF
NON-ESSENTIAL BUSINESSES AND INDIVIDUAL ACTIVITY TO PREVENT
THE SPREAD OF 2019 NOVEL CORONAVIRUS (COVID -19)**

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 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 16, 2020, the Governor of Pennsylvania announced that the Commonwealth of Pennsylvania is imposing mitigation efforts to curtail the spread of COVID-19 uniformly across the Commonwealth, calling upon nonessential businesses (excluding business such as grocery stores and medical facilities) to close beginning at midnight Tuesday March 17, 2020; and

WHEREAS, on March 17, 2020, the Mayor and the Commissioner of the Department of Public Health ("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 Public Health issued orders requiring all non-life-sustaining businesses to close across the Commonwealth, to help stop the spread of the virus and the Governor and Secretary updated the aforementioned orders and list of life-sustaining and non-life sustaining businesses on March 20, 2020 and, again, on March 21, 2020; 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, which superseded the

Emergency Order issued by the Mayor and Health Commissioner dated March 17, 2020, which prohibited, *inter alia*, most construction work in Philadelphia (the “March 22, 2020 Prohibition on Non-Essential Business”); and

WHEREAS, on March 23, 2020, the Governor of Pennsylvania issued a Stay at Home Order that applies to Philadelphia and numerous surrounding counties; and

WHEREAS, on March 26, 2020, the Board of Health approved an Emergency Regulation Governing the Control and Prevention of COVID-19, 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 Health Commissioner determines are necessary or appropriate control or prevention measures to limit the spread of COVID-19; 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 not 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, COVID-19 can cause severe disease and death, particularly in older adult and other vulnerable populations; and

WHEREAS, pursuant to authority set forth in The Philadelphia Code and inherent authority set forth in 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 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; and

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

WHEREAS, the Mayor and the Health Commissioner have determined that, in order to allow limited economic activity to protect existing construction sites, and protect jobs and investment in the City, construction activity may resume in the City with strict limitations appropriate to the situation and the need to limit the spread of COVID-19 on the bases outlined in this Order;

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. Scope.

A. This Order pertains to projects for which a building or demolition permit was issued by the City of Philadelphia on or before March 20, 2020.

B. The lifting of restrictions pertaining to projects for which building or demolition permits were or will be issued after March 20, 2020, shall be addressed in subsequent Orders and construction activity in connection with such projects shall not take place until such restrictions are lifted, except that projects for which the City issued permits after March 20, 2020 to abate emergencies are not restricted and may continue in accordance with applicable orders and guidance.

C. No work shall be performed under this Order on the interior of occupied residential structures, except for emergency repairs as defined in Section 1.G.1(iii) of the City's March 22, 2020 Prohibition on Non-Essential Business. In multi-family buildings or portions thereof, no work is permitted within any occupied dwelling unit or within any

shared common area, except emergency repairs as defined in Section 1.G.1(iii) of the City's March 22, 2020 Prohibition on Non-Essential Business.

D. The following types of construction work remain prohibited, unless authorized in writing by the Commissioner of the Department of Licenses and Inspections:

- underpinning work;
- demolition of an attached structure; and
- projects that require the support of an existing party wall.

Section 2. Periods of Authorized Work.

Work authorized under this Order may begin on May 1, 2020 at 7 a.m. All work allowed under this Order must take place between 7 a.m. and 5 p.m. on Mondays through Fridays. No work may be performed on Saturdays or Sundays, or before 7 a.m. or after 5 p.m. on a weekday, except in an emergency situation.

Section 3. Safety and Mitigation Requirements.

All work performed under this Order must be performed in strict adherence to the following safety requirements.

A. All work must conform to requirements of the Order of the Secretary of the Pennsylvania Department of Health Directing Public Health Safety Measures for Businesses Permitted to Maintain In-person Operations issued on April 15, 2020, including but not limited to requirements to:

- provide masks for employees to wear during their time at the work site, and make it a mandatory requirement to wear masks while on the work site;
- provide sufficient amount of space for employees to have breaks and meals while maintaining a social distance of six (6) feet;
- establish protocols to execute upon discovery that workers have been exposed to a person who is a probable or confirmed case of COVID-19; and
- provide employees access to regular hand washing with soap, hand sanitizer, and disinfectant wipes, and ensure that common areas are cleaned on a regular basis.

B. All work must conform to any applicable provisions of the April 5, 2020, Order of the Pennsylvania Secretary of Health providing for building safety measures.

C. All work must follow all applicable guidance of the Centers for Disease Control, particularly the April 8, 2020 Interim Guidance for Implementing Safety Practice for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19.

D. All work must follow all aspects of the Governor’s April 23, 2020 “Guidance for Businesses in the Construction Industry Permitted to Operate During the COVID-19 Disaster Emergency,” including but not limited to the following requirements that shall be strictly followed:

- Implementing cleaning and sanitizing protocols at all construction sites and projects, including regular and periodic cleaning and disinfecting of areas that are at high risk for transmission, such as common areas and regularly trafficked spaces (sites are encouraged to engage cleaning companies trained in disinfection protocols to address communicable diseases);
- Requiring social distancing (six-foot minimum distance between workers) while working, unless the safety of the public or workers require deviation;
- No more than four (4) persons per dwelling unit may work at a site for the construction or renovation of a one or two-family dwelling;
- No more than four (4) persons may work at a commercial site or portion thereof that is enclosed and less than 2,000 square feet; one additional worker is allowed for each additional 500 square feet of enclosed area over 2,000 square feet;
- All other construction must adhere to the limitations on numbers of workers at a particular location set forth in the Governor’s Guidance;
- Employ jobsite screening based on CDC guidance to determine if workers should work;
- Prohibit employees with COVID-19 symptoms from working and requiring all sick workers to stay home;
- Limit tool sharing and sanitize tools if they must be shared; and
- Ensuring, when feasible, that workers travel to and from the site separately.

E. The Site Safety Manager at each job site, who may also be the “Pandemic Safety Officer” as required under the Governor’s Guidance, must obtain a COVID-19 training certificate from one of the training sources designated by the Department of Licenses and Inspections on its website. Such officers shall convey, implement and enforce

the masking, social distancing, sanitization, and other requirements of this Order and its incorporated orders and guidance.

F. A COVID-19 Safety Plan must be maintained at each job site that outlines the site’s plans for complying with all applicable orders and guidance, educating workers on safety precautions, and measures to mitigate the risk of spreading COVID-19. Said Plan shall be produced upon request by the Department of Licenses and Inspections.

G. Failure to allow the use of sick or other applicable leave time by any worker under The Philadelphia Code or any other provision of state or federal law that allows for the use of such time in connection with the activities allowed under this Order shall constitute a violation of the requirements of this Order.

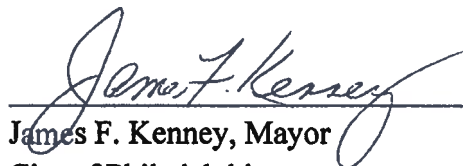
Section 4. Adherence to Limitations of this Order.

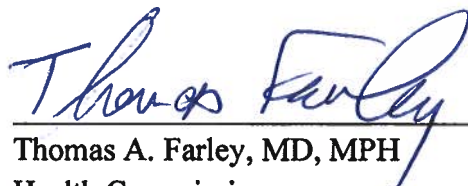
Violations of the requirements of this Order, including any of the safety or mitigation requirements set forth in Section 3, shall be strictly enforced and may lead to the issuance of violation notices, stop work orders, the imposition of fines, the revocation or suspension of licenses, and any other remedies available under law.

Section 5. No Vested Rights.

Work based on permits for which a right of appeal has not expired because of the extension of appeal rights due to the emergency shall proceed at the builder’s own risk and not be subject to a claim of vested rights or any other similar claim.

Date: April 29, 2020


James F. Kenney, Mayor
City of Philadelphia


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