



CITY OF PHILADELPHIA

June 7, 2021

Commissioner James Leonard, Esq.
Department of Records
City Hall Room 156
Philadelphia, PA 19107

**RE: Amended Regulations on the Operation of Temporary Sidewalk Cafes and
Streeteries During the COVID-19 Emergency 2021**

Dear Commissioner Leonard,

Attached please find the Office of the Managing Director's "Amendments to the Superseding Regulation on the Operation of Temporary Sidewalk Cafes and Streeteries During the COVID-19 Emergency 2021." The emergency regulations have been approved by the Law Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tamar Alexander", written over a horizontal line.

Tamar Alexander
Managing Director
Office of the Managing Director
1401 John F. Kennedy Boulevard
Philadelphia, PA 19102

**City of Philadelphia
Law Department**

MEMORANDUM

TO: Tumar Alexander, Managing Director

CC: Vanessa Garrett Harley, First Deputy Managing Director
Mike Carroll, P.E., Deputy Managing Director for Transportation &
Systems

FROM: James C. Kellett, Deputy City Solicitor

DATE: 06/07/2021

SUBJECT: Amendments to the Superseding Regulation on the Operation of
Temporary Sidewalk Cafes and Streeteries During the COVID-19
Emergency 2021

I have reviewed the attached “Amendments to the Superseding Regulation on the Operation of Temporary Sidewalk Cafes and Streeteries During the COVID-19 Emergency 2021” that was submitted to the Law Department. I find the regulation to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may forward this regulation to the Department of Records where it will be made available for public inspection.

Consistent with Mayor Kenney’s March 11, 2020 Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus, the regulations may be promulgated immediately upon delivery to the Department of Records as a temporary regulation, while the remaining procedures and formalities of Section 8-407 are followed to permanently promulgate the regulation.

**OFFICE OF THE MANAGING DIRECTOR
AMENDMENT---SUPERSEDING REGULATION ON THE OPERATION OF
TEMPORARY SIDEWALK CAFÉS AND STREETERIES DURING THE COVID-19
EMERGENCY 2021**

The Office of the Managing Director amends the Superseding Regulations on the Operation of Temporary Sidewalk Cafes and Streeteries During the COVID-19 Emergency 2021 by amends Section 5K(1)—*Prohibitions*, Section 5(K)(3)-- *Propane and Natural Gas Heaters* and Section 5(L)(4)—*Building Permits* as follows:

Deletions in ~~Strikethrough~~
Additions in **Bold**

Section 5. Operating Requirements.

K. Electrical and Heating Operations:

1. *Prohibitions*

- a. No open flames (even if covered) are allowed in the Right-of-Way.
- b. No solid fuels (such as but not limited to wood and coal) are allowed to be used in the right-of-way.
- c. No kerosene is allowed to be used in the right-of-way.
- d. No cooking is allowed in the right-of-way.
- e. **No propane is allowed to be used in the cart-way (street and parking lane).**
- f. No heating or fuel equipment may be stored in the right-of-way when not in use.
- g. No private gas lines are allowed to extend into the right-of-way.
- h. Do not exceed circuit amperage with electric connections.
- i. Do not change your heating set-up once it is established, particularly after it was verified by City inspection. If an adjustment is needed please arrange for an inspection prior to the change.

3. *Propane and Natural Gas Heaters*

- a. Must be placed a minimum of five (5) feet from the building and all combustibles, **including but not limited to roofs, canopies, tents, and umbrellas, and in accordance with manufacturer instructions.**
- b. Equipment must be listed and labeled for outside use.
- c. Equipment must comply with all provisions of The Philadelphia Code Fire Code Section 603.4.2.
- d. Containers (attached or detached from device) may not be stored indoors or in the right-of way.
- e. Ensure that proper exhaust ventilation is maintained.
- f. Secure any propane tank placed in the right-of-way **while in use.**
- g. **Propane may only be used on the sidewalk.**
- h. **Propane may not be stored on the right-of-way (including sidewalks), indoors, against a building, or within 5ft of a building or property line; even if in a cage.**

L. Erection/Construction of Tents, Shelters, and/or other Structures

4. *Building Permit*

- a. A building permit is required for any rigid overhead covering/framing or if the structure has walls over four (4) feet in height.
- b. **Streets Department approval is required for the issuance of a building permit related to any structure in the Right-of-Way.**
 - a. **Streets Department will evaluate the placement of the structure related to traffic controls, utility access, traffic flow, and other safety considerations.**
 - b. **Streets Department will not give approval for any structure that has walls more than 10ft in height or for any structure containing a roof deck.**
 - c. **Streets Department approval for a structure related to a Streeterly shall expire on December 31, 2021.**
- c. Applications for a building permit must follow the normal application procedure for a building permit and can be submitted through eClipse.
 - i. Applications should be submitted as Commercial Alterations or Commercial Addition (not New Construction or Shelter Platform).
 - ii. When applying, the applicant should identify if the structure is **located/being** built in the right-of-way to trigger the Streets Department review.
 - iii. **Failure to note that the structure is in the right-of-way and/or get proper Streets Department approval may lead to the revocation of an issued building permit.**
- d. The application must be submitted with plans that provide enough information to confirm compliance with all applicable Building Codes:
 - i. A site plan indicating the size and location of the structure;
 - ii. A framing plan and anchoring detail; and
 - iii. Details of all building materials and roof/wall coverings.
- e. Once you are issued a ~~tent~~ **building** permit you must amend your Temporary Sidewalk Café/Streeterly License.

The Amendments to the Superseding Regulations on the Operation of Temporary Sidewalk Cafes and Streeteries During the COVID-19 Emergency 2021 shall be effective immediately as to the amendment to Section 5(L)(4) and as of June 11, 2021 as to the amendments of Section 5K(1) and Section 5(K)(3). These amendments shall remain in effect until rescinded, superseded, amended or December 31, 2021.

Date: June 7, 2021