



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: 10/28/20
LAW DEPARTMENT: 10/29/20
RECORDS DEPARTMENT:

**SIXTEENTH SUPPLEMENTAL EMERGENCY REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
(GATHERING SIZES)**

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 6-205 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, 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, beginning on March 17, 2020, the Mayor and the Commissioner of Health as well as the Governor of the Commonwealth of Pennsylvania issued a series of orders ordering certain businesses to close across the City and Commonwealth, respectively, and requiring individuals to remain at home with certain exceptions.

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 Prohibition on Non-Essential Business 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 May 14, 2020, the Board of Health approved the “Fourth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Delegation of Authority),” which expressly authorized the Health Commissioner to relax the requirements and modify all emergency regulations adopted by the Board for the purpose of governing the control and prevention of COVID-19 that the Health Commissioner determines in good faith are no longer necessary or appropriate control or prevention measures; and

WHEREAS, on May 29, 2020, the Mayor and Health Commissioner issued an “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)”; and

WHEREAS, 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, *inter alia*, outdoor dining, use of pools, personal grooming services, retail businesses, outdoor sports, and other activities, and outdoor gatherings; and

WHEREAS, risk of community spread of COVID-19 necessitates continued vigilance; and

WHEREAS, the spread of COVID-19 through outdoor gatherings is less likely than through indoor gatherings; and

WHEREAS, on September 15, 2020, the Mayor and Health Commissioner issued the Fourth Amendment Regarding Activities Permitted Under the Modified Green Phase Emergency Order, which increased the number of individuals that may gather outside to 150; and

WHEREAS, beginning October 9, 2020, the Commonwealth modified limitations on gathering sizes by identifying occupancy limits as the basis for determining the number of people permitted to congregate for indoor and outdoor events or gatherings, provided that local authorities continue to be permitted to enforce more strict limitations; and

WHEREAS, on October 15, 2020, the Mayor and Health Commissioner issued a “Fifth Amendment Regarding Activities Permitted under 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), Modified Green Phase Modifications to Permitted Gathering Sizes” (the “October 15, 2020 Order”), which adjusted permissible indoor and outdoor gathering sizes, subject to applicable guidance and requirements; and

WHEREAS, the Board of Health agrees with these determinations, and recognizes 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; and

WHEREAS, consistent with the foregoing, the Board hereby promulgates the below Sixteenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Gathering Sizes) to adopt the October 15, 2020 Order, 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 October 15, 2020 “Fifth Amendment Regarding Activities Permitted under 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), Modified Green Phase Modifications to Permitted Gathering Sizes,” which adjusted permissible indoor and outdoor gathering sizes, subject to applicable guidance and requirements, and which is attached hereto as Attachment A.

3. 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

**FIFTH AMENDMENT REGARDING ACTIVITIES PERMITTED UNDER 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)**

**MODIFIED GREEN PHASE
MODIFICATIONS TO PERMITTED GATHERING SIZES**

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 which has been renewed and is still in effect; 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 of Pennsylvania 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 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 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, 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, which expressly authorized 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, effective on the date determined by the Governor that the City of Philadelphia should move into the Yellow Phase, expected to be June 5, 2020; and

WHEREAS, on June 4, 2020, the Governor and Secretary of Health amended their respective orders for Limited Opening of Businesses, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts, to apply to Philadelphia effective June 5th, which generally moved the City into the Yellow Phase pursuant to the Governor’s guidelines; 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, *inter alia*, use of pools, personal grooming services, retail businesses, outdoor sports and other activities, and outdoor gatherings; 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 have hastily reopened, including marked increases of positively identified COVID cases, the City is taking a cautious approach to moving to the Green Phase; and

WHEREAS, Philadelphians are working hard to turn back COVID-19, and they are succeeding. Because of social-distancing actions and the various City Orders protecting the public health, daily COVID-19 case counts have fallen significantly from counts in mid-April and mid-May.

The rate of community spread of COVID-19 in Philadelphia remains high, however, and measures to continue to reduce its spread must be maintained and observed; 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, on July 3, 2020, the Mayor and Health Commissioner issued an order that moved the City from the Yellow Phase to a Modified Green Phase (“Modified Green Phase Emergency Order”) and that, among other things, generally increased the permitted capacity for outdoor gatherings and small events from 25 people to 50 people and generally permitted formally organized and non-organized outdoor sports activities for youths and adults; and

WHEREAS, average daily case counts have been falling through the month of August and into September, and the spread of COVID-19 through outdoor gatherings is less likely than through indoor gatherings; and

WHEREAS, on September 15, 2020, Mayor and Health Commissioner issued the Fourth Amendment Regarding Activities Permitted Under the Modified Green Phase Emergency Order, which increased the number of individuals that may gather outside to 150; and

WHEREAS, beginning October 9, 2020, the Commonwealth modified limitations on gathering sizes by identifying occupancy limits as the basis for determining the number of people permitted to congregate for inside and outside events or gatherings, provided that local authorities continue to be permitted to enforce more strict limitations;

WHEREAS, pursuant to authority set forth in The Philadelphia Code and The Philadelphia Home Rule Charter, the Mayor has broad authority over enforcement of City laws and regulations, and 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 and applicable state law 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

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. Definitions.

A. Gatherings or events. A temporary grouping of individuals for defined purposes that takes place over a limited timeframe, such as hours or days, including fairs, festivals, concerts, or shows and groupings that occur within larger, more permanent businesses, such as shows or performances within amusement parks, individual showings of movies, business meetings or conferences, or each party or reception within a multi-room venue.

Groups of specific individuals who share a space within a building on a regular and consistent basis in the ordinary course of operations, such as in an office building, classroom, production floor or similar regularly occurring operation of a business or organization, are not events or gatherings for the purposes of this order.

B. Indoor Gathering or Event. A gathering or event is considered “indoors” if it takes place in a space with three or more walls. Enclosed tents, or 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.

C. Maximum Occupancy. The maximum occupancy permitted under occupancy limitations established under The Philadelphia Code.

Section 2. Indoor and Outdoor Gatherings

Gatherings and events up to the permissible number of persons calculated pursuant to the Outdoor Space Formula or Indoor Space Formula provided below, as applicable, are permitted so long as they are conducted pursuant to all applicable guidance and requirements of the Commonwealth and the City, including occupancy and capacity limitations, masking and social distancing requirements, such as:

1. Requiring all persons to wear masks or face coverings that cover the nose and mouth.
2. Requiring 6-foot social distancing requirements between household groups.
3. In fixed-seat venues, seats must be arranged so that persons in different households remain seated more than 6 feet apart.
4. Indoor theaters and performance venues may not allow eating, drinking, or smoking onsite.

Applicable guidance and requirements include, but are not limited to, the Emergency Order Concerning the Use of Face Coverings to prevent the Spread of 2019 Novel Coronavirus

(COVID-19), The City of Philadelphia's *Reopening Guidance – Outdoor Performances and Events*, and The City of Philadelphia's *Reopening Guidance – Celebrations, Catering Halls and Special Events*.

A. Permissible Maximum Persons - Outdoor Space Formula

1. For facilities, spaces, or rooms, as applicable, with a maximum occupancy limit of up to 2,000 people, 20% of the maximum occupancy.
2. For facilities, spaces, or rooms, as applicable, with a maximum occupancy limit between 2,001 and 50,000 people, 15% of the maximum occupancy.
3. For facilities, spaces, or rooms, as applicable, with a maximum occupancy limit over 50,000, a maximum of 7,500 people.
4. For spaces that have no defined maximum occupancy limit, the maximum occupancy shall be considered 67 people per 1,000 square feet.

B. Permissible Maximum Persons - Indoor Space Formula

1. For facilities, spaces, or rooms, as applicable, with a maximum occupancy limit, the lesser of 10% of the maximum occupancy or 250 people.
2. For facilities, spaces, or rooms, as applicable, with no defined maximum occupancy limit, the maximum occupancy shall be considered the lesser of 10 persons per 1,000 square feet or 250 people.

C. Applicable Enforcement Requirements.

Organizers of the gathering or event are required to ensure that:

1. It is limited to the permissible maximum persons permitted in the space or spaces at issue, including all including staff, performers, guests, and any other persons present.
2. The number of persons present in a given space remains below the applicable permissible maximum persons requirements at all times by controlling entry into the event space, counting the number of persons entering, and refusing entry when the limit is met.

3. For events or gatherings that take place in both indoor and outdoor portions of a facility, the Outdoor Space Formula is applied to the outdoor portions of the facility, and the Indoor Space Formula is applied to the indoor portion of the venue.

4. For events or gatherings that take place in multiple locations, spaces, or rooms, the number of persons permitted in each such location, space, or room are monitored.

5. Social distancing, masking, and other health restrictions are enforced within the event or gathering.

Section 4. Relationship with Orders Regulating Indoor Dining Activities

A. The occupancy limits for general indoor dining referenced in Section 1(viii) of the September 8, 2020, Third Amendment Regarding Additional Activities to the Modified Green Phase Emergency Order, as amended by the October 1, 2020 Further Amendment Regarding Indoor Dining Activities to the Modified Green Phase Emergency Order, shall continue to control indoor dining activities and shall be based on the applicable percentage of the maximum number of individuals that may dine in the facility and not the maximum occupancy of the space as defined under this Order.

B. The maximum number of individuals permitted at discrete events at any retail food services business, including those hosted at restaurants or at a private event space or wedding venue, shall be controlled by this Order.

Section 5. Duration

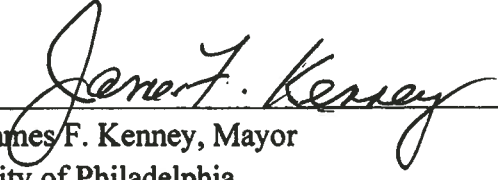
This Order shall be effective October 16, 2020 and shall remain in effect unless suspended, superseded, by subsequent order.

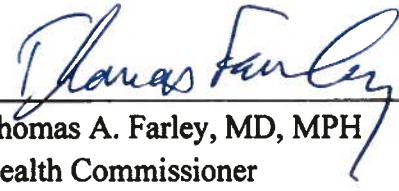
Section 6. Interpretation and Implementation

A. Except to the extent of a direct conflict, this Order generally 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. 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.

Date: October 15, 2020


James F. Kenney, Mayor
City of Philadelphia


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