



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: May 14, 2020
LAW DEPARTMENT: May 15, 2020
RECORDS DEPARTMENT:

**FOURTH SUPPLEMENTAL EMERGENCY REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
(DELEGATION OF AUTHORITY)**

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, 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 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Prohibiting Operation of Non-Essential Businesses and Congregation of Persons to Prevent the Spread of COVID-19, which superseded the prior emergency orders issued by the Mayor and Health Commissioner dated March 17, 2020, which prohibited, *inter alia*, most construction work in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 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 22, 2020, the Board of Health approved a Second Supplemental Emergency Regulation Governing the Control and Prevision of COVID-19 (Long-Term Care Facilities) (effective April 23, 2020), adopting a prior order of the Health Commissioner concerning specific control measures applicable to Long-Term Care Facilities; 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 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),” which was adopted by this Board effective April 30, 2020 as a “Third Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Authorized Construction Activity);” and

WHEREAS, on May 11, 2020, the Mayor and the Health Commissioner delegated certain authority regarding the conduct of construction activity under such Authorization to the Commissioner of the Department of Licenses & Inspections (May 11, 2020 Delegation); and

WHEREAS, on May 13, 2020, the Department of Licenses & Inspections promulgated an “Emergency Regulation Modifying Restrictions Regarding the Periods of Authorized Construction Work for Certain Types of Projects Under Certain Conditions;” 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 Fourth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Delegation of Authority) to adopt the Mayor and Health Commissioner’s May 11, 2020 Delegation, and to expressly authorize the Health Commissioner to modify prior controls that are no longer necessary and to delegate such authority where appropriate, 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 May 11, 2020, Order of the Mayor and Health Commissioner entitled “Amendment to 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 delegates certain authority to regulate the conduct of construction activity to the Commissioner of the Department of Licenses & Inspections, and which is attached hereto, as Attachment A.

3. The Board hereby fully adopts the May 13, 2020, Department of Licenses & Inspections “Emergency Regulation Modifying Restrictions Regarding the Periods of Authorized Construction Works for Certain Types of Projects Under Certain Conditions,” which modifies the types of construction that are limited by Section 2 (“Periods of Authorized Work”) of the Mayor and Health Commissioner’s “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 adopted as the Third Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Authorized Construction Activity)” by this Board effective April 30, 2020 , and which is attached hereto, as Attachment B.

4. In addition to all authority previously vested in the Health Commissioner either expressly or implicitly, the Board expressly authorizes the Health Commissioner to interpret, issue guidance, relax the requirements of, and otherwise modify in any way all emergency regulations adopted by this Board for the purpose of governing the control and prevention of COVID-19 whether issued before or after the instant Board of Health regulation, all as the Health Commissioner determines in good faith are no longer necessary or appropriate control or prevention measures to limit the spread of COVID-19, provided the Health Commissioner continues to present any substantive changes made to this Board's regulations for the Board's consideration at the Board's next previously scheduled meeting if reasonably practicable, or at the next subsequent meeting if not reasonably practicable.

5. The Health Commissioner may delegate, in writing, his authority under Section 4 of this Emergency Regulation to other City Departments, Boards, or Commissioners or the heads thereof as the Health Commissioner determines is appropriate under the circumstances.

6. 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**

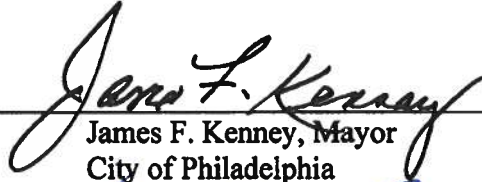
**AMENDMENT TO AUTHORIZATION FOR THE CONDUCT OF CERTAIN
CONSTRUCTION ACTIVITY CURRENTLY PROHIBITED BY THE MARCH 22, 2020
EMERGENCY ORDER TEMPORARILY PROHIBITING OPERATION OF NON-
ESSENTIAL BUSINESSES AND INDIVIDUAL ACTIVITY TO PREVENT THE
SPREAD OF 2019 NOVEL CORONAVIRUS (COVID-19)**

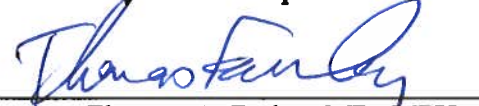
The April 29, 2020 Order of Authorization for the Conduct of Certain Construction Activity Currently Prohibited by the March 22, 2020 Emergency Order Temporarily Prohibiting Operation of Non-Essential Businesses and Individual Activity to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) (as approved by regulation of the Board of Health adopted April 30, 2020), is hereby amended as follows:

Section 6. Delegation of Authority

The Commissioner of the Department of Licenses & Inspections, in consultation with the Law Department, is authorized to interpret, issue guidance, and relax the periods of authorized work and safety and mitigation requirements provided for under Section 2 and Section 3 of this Order by regulation, or as otherwise determined appropriate by the Commissioner and the Law Department.

Date: 5/11/2020


James F. Kenney, Mayor
City of Philadelphia


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

Attachment B

**CITY OF PHILADELPHIA
DEPARTMENT OF LICENSES AND INSPECTIONS**

**EMERGENCY REGULATION MODIFYING RESTRICTIONS
REGARDING THE PERIODS OF AUTHORIZED CONSTRUCTION WORK
FOR CERTAIN TYPES OF PROJECTS UNDER CERTAIN CONDITIONS**

On March 22, 2020, as part of a series of emergency declarations and orders, 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 (“Emergency Order”). On March 23, 2020, the Governor of Pennsylvania issued a Stay at Home Order that applies to Philadelphia and numerous surrounding counties and which limited the operations of non-life sustaining businesses. The City’s Emergency Order was approved as a regulation of the Board of Health on March 26, 2020 (effective March 27, 2020) and the Board of Health further 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.

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.” 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, and provided additional detail regarding safety and mitigation measures required to be followed in connection with such construction activity.

On April 29, 2020, the Mayor and the Health Commissioner amended the Emergency Order to provide an Authorization for the Conduct of Certain Construction Activity Currently Prohibited by the Emergency Order (“Limited Construction Authorization”). The Limited Construction Authorization permitted work to recommence on certain construction projects for which a building or demolition permit was issued by the City of Philadelphia on or before March 20, 2020 during certain time periods provided certain safety and mitigation requirements are followed. On May 11, 2020 the Mayor and the Health Commissioner delegated authority to the Commissioner of the Department of Licenses & Inspections to, *inter alia*, interpret, issue guidance, and relax the periods of authorized work and provided for under the Limited Construction Authorization.

The Philadelphia Department of Licenses and Inspections has determined that it is in the best interest of the City and its residents to modify Section 2 of the Limited Construction Authorization to revise the time limitations on work on construction projects that do not involve One- or Two-family Dwellings (R-3 occupancies). This is being done to facilitate work on commercial and large residential projects in a manner that will permit adherence to safety requirements such as the social distancing and worker limitation restrictions, allowing for the use of staggered shifts. The Department therefore adopts the following emergency regulation:

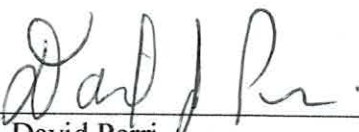
1. The time period limitations of Section 2 of the Limited Construction

Authorization (“Periods of Authorized Work”) shall only apply to work performed on or in connection with one- or two-family dwellings (R-3 occupancies), and shall not apply to other construction projects, provided that: (a) such other construction activity must strictly comply with Section 3 of the Limited Construction Authorization (“Safety and Mitigation Requirements”); and (b) such other construction must comply with all other applicable requirements of the law, such as the noise limitations of Chapter 10-400 of The Philadelphia Code (“Noise and Excessive Vibration”), when it occurs outside of the time periods for “regular construction” as defined therein.

2. The failure to comply with any applicable provision of the Limited Construction Authority 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.

3. This emergency regulation does not otherwise modify the Limited Construction Authorization, authorize additional construction projects, or impose requirements on essential construction that was authorized prior to the Limited Construction Authorization.

4. Based on the Mayor’s March 11, 2020, Declaration of Extraordinary Circumstance that allows regulations related to addressing the pandemic to become effective immediately upon transmission to the Department of Records, this emergency regulation shall be effective immediately.

By: 
David Perri
Commissioner
Department of Licenses & Inspections
City of Philadelphia

Date Signed: May 13, 2020