



CITY OF PHILADELPHIA  
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: June 11, 2020  
LAW DEPARTMENT: June 12, 2020  
RECORDS DEPARTMENT:

**FIFTH SUPPLEMENTAL EMERGENCY REGULATION GOVERNING  
THE CONTROL AND PREVENTION OF COVID-19  
(SAFER AT HOME YELLOW PHASE)**

**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 the Commonwealth 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 Health Commissioner as well as the Governor and the Secretary of Health issued a series of orders requiring certain businesses to close across the City and Commonwealth, respectively, and requiring individuals to remain at home with certain exceptions which were subsequently adopted as regulations by the Board of Health; 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 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 gear; 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**, on April 29, 2020, the Mayor of the City of Philadelphia and the Health Commissioner 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**, the Board of Health 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; and

**WHEREAS**, consistent with the foregoing, on May 14, 2020 the Board approved the Fourth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Delegation of Authority), effective May 15, 2020, which adopted the Mayor and Health Commissioner’s May 11, 2020 Delegation, and expressly authorized the Health Commissioner to modify prior controls that are no longer necessary and to delegate such authority where appropriate; and

**WHEREAS**, on May 29, 2020, the Mayor and the 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), Yellow Phase of Reopening” (“Safer at Home Yellow Phase Order”), which became effective on June 5, 2020, pursuant to the Governor and Secretary of Health’s Amendments to the Orders of the Governor of the Commonwealth of Pennsylvania and the Secretary of Health for Limited Opening of Businesses, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts, which suspended prior state orders ordering the closure of all businesses that are not life sustaining and directing individuals to stay at home with respect to Philadelphia; and

**WHEREAS**, the Board of Health agrees with these determinations, and recognizes that a graduated approach to reopening the City is prudent; and

**WHEREAS**, consistent with the foregoing, the Board hereby promulgates the below Fifth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Safer at Home Yellow Phase) to adopt the Mayor and Health Commissioner’s

May 29, 2020 Safer at Home Yellow Phase 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 these amendments as a permanent regulation; and

**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 Mayor and Health Commissioner's May 29, 2020 "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," which became effective on June 5, 2020, and which is attached hereto, as Attachment A.

3. The Board's March 26, 2020 Emergency Regulation Governing the Control and Prevention of COVID-19 and Third Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Authorized Construction Activity) are hereby revised pursuant to the terms of this Emergency Regulation, and superseded to the extent inconsistent with this Emergency Regulation.

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**

**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**

**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 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 (“the March 22, 2020 Emergency Order”); 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 April 15, 2020, the Secretary of Health of the Commonwealth of Pennsylvania issued an Order “Directing Public Health Safety Measures for Businesses Permitted to Maintain In-person Operations,” which requires 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, 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; 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 the Health Commissioner issued an Order on April 29, 2020, entitled “Authorization for the Conduct of Certain Construction Activity Currently Prohibited by the March 22, 2020 Emergency Order,” which Construction Authorization was adopted as a regulation of the Board of Health on April 29, 2020 (effective April 30, 2020); and

**WHEREAS**, on May 22, 2020, the Governor of Pennsylvania announced that Philadelphia, among other counties, are “expected to move” to the Yellow Phase of reopening by June 5, 2020; and

**WHEREAS**, on May 26, 2020, the Mayor and the Health Commissioner issued an Order further amending the March 22, 2020 Emergency Order to allow additional construction activity to commence, allowing the real estate industry in Philadelphia to resume activities;

and allowing walk-up ordering and the operation of mobile vending, including by food trucks, all in accordance with specified and applicable health and safety precautions; and

**WHEREAS**, Philadelphians are working hard to turn back COVID-19, and they are succeeding; because of social-distancing actions and the stay-at-home order, as of mid-May 2020, daily COVID-19 case counts had fallen to about half those of mid-April and were still declining; and

**WHEREAS**, the Mayor and Health Commissioner recognize that COVID-19 will not be eradicated from the region for many months at least, and if Philadelphians simply resume their previous activities now, the epidemic will resurge; and

**WHEREAS**, the Mayor and Health Commissioner have determined that Philadelphia may move to the Yellow Phase with additional, Philadelphia-specific restrictions during the Yellow Phase that will apply in addition to restrictions established by the Governor; and

**WHEREAS**, the Governor's Yellow Phase anticipates lifting of the Commonwealth's Stay-At-Home Order, and the Mayor and Health Commissioner have determined that the City's Stay-At Home Order shall also be lifted at the same time, while recognizing that Philadelphians are safer at home and are advised not to attend social gatherings of any size until the Governor and City move Philadelphia into the Green Phase; and

**WHEREAS**, on or around May 28, 2020, the City's Department of Public Health released *Safe Mode: Guidelines for Safer Operations During the COVID-19 Pandemic*, which provides specific reopening guidance for types of facilities that may be able to open or expand operations when we reach the Yellow Phase; 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 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. Limited Opening of Non-Essential Businesses & Activities in Philadelphia

- A. The City's March 22, 2020 Emergency Order prohibiting operation of non-essential businesses and activities to prevent the spread of COVID-19, as subsequently amended, is hereby revised pursuant to the terms of this Order and superseded to the extent inconsistent with this Order. On the Effective Date, as defined in Section 6, the restrictions and allowances of the Governor's Yellow Phase as stated in the *Plan for Pennsylvania* or any consistent order from the Governor are adopted, subject to the City's interpretations, additional restrictions, or guidelines established in this Order, and as may be subsequently amended.
- B. During the Yellow Phase:
1. Businesses that had been conducting operations remotely, in whole or in part, under the *Order of the Governor Regarding The Closure of All Businesses That are Not Life Sustaining* of March 19, 2020 and the City's March 22, 2020 Emergency Order (collectively the Red Phase Orders) must continue to conduct such operations remotely. Such businesses may not commence in-person business operations for those business functions that have been able to operate remotely.
  2. Except as otherwise provided in this Order, businesses that have not been able to conduct all or certain operations under the Red Phase Orders because such operations are not conducive to functioning remotely are authorized to commence such in-person operations in accordance with applicable safety requirements and guidance.
  3. Businesses that were permitted to conduct in-person operations under the Red Phase Orders may continue in-person operations in accordance with all applicable orders and guidance that are required of such in-person operations during the Red Phase, including any industry-specific orders and guidance issued by the Commonwealth and City, all as may be further amended.
  4. Consistent with the Governor's Order, the following businesses and activities remain prohibited:
    - a. Indoor recreation, such as indoor sports or training, bowling, arcades, racquetball, racing, gaming halls, pool halls, indoor miniature golf, and other similar facilities;
    - b. Activities in entertainment facilities, such as casinos, theaters, museums, zoos, concerts, social clubs, carnivals, amusement parks, semiprofessional or amateur sports, and other similar facilities;
    - c. Health and wellness facilities and personal care services, such as gyms, spas, saunas, barbershops, hair salons, nail salons, tattoo and piercing shops, tanning salons, massage therapy providers, and other similar facilities;



- d. Indoor malls, including interior businesses, and other similar facilities, except pharmacies or healthcare tenants and tenants with external entrances adhering to applicable business guidance;
- e. Outdoor group recreational activities, such as sports leagues, organized and unorganized group sports, competitive events, and similar activities;
  - 1. Professional sports teams must adhere to the industry-specific guidance issued by the Commonwealth for professional sports, which includes prohibitions on onsite spectators and requires development of a COVID-19 safety plan approved by the Commonwealth, according to the Commonwealth's *Life Sustaining Business Frequently Asked Questions*, as updated on May 22, 2020;
- f. On-site dining at restaurants and cafes remains prohibited;
  - 1. Outdoor dining at restaurants and cafes remains prohibited in Philadelphia, notwithstanding the Commonwealth's guidance that dining in outdoor seating is permitted starting June 5, 2020 for counties in the Yellow Phase. The City may issue an order permitting outdoor dining in Philadelphia on a date later than June 5, 2020;
  - 2. Carry-out, delivery, drive-thru, and walk-up ordering remain permitted;
  - 3. Restaurants and food vendors shall not permit lines of more than ten (10) customers to form in or around their locations; and
  - 4. Customers and employees must wear masks while orders are being placed in addition to following all other applicable rules and guidance.
- 5. Summer camps may operate in accordance with the Commonwealth's guidance for *Summer Recreation, Camps, and Pools* issued on May 22, 2020, and applicable City guidance, except that the City prohibits swimming pools in Philadelphia from reopening during the Yellow Phase.
- 6. City playgrounds are permitted to reopen for summer camp and individual family activities for children only, which does not include group recreational activities prohibited in other parts of this Order.
- 7. Child care providers may operate in accordance with applicable guidance from the Commonwealth and must familiarize themselves with and be prepared to implement guidance issued by the Centers for Disease Control and Prevention, which outlines the steps providers should take to keep child care spaces safe and to properly monitor staff and children for potential exposure to and symptoms of COVID-19.

## Section 2. Business Safety Rules During the Yellow Phase

- A. Businesses permitted to conduct operations during the Yellow Phase shall conduct operations in accordance with the Commonwealth's *Guidance for Businesses Permitted to Operate During the COVID-19 Disaster Emergency to Ensure the Safety and Health of Employees and the Public*, as subsequently amended, and all orders and guidance cited therein, and all applicable City orders and guidance, including the City of Philadelphia *Safe Mode: Guidelines for Safer Operations During the COVID-19 Pandemic*, as amended, the requirements of which this Order identifies specifically as follows:
1. **Universal Masking.** Businesses must provide masks for all onsite employees, who must wear masks while on-duty. Customers and visitors must also wear masks. Businesses must comply with all other industry-specific requirements for masking and personal protective equipment (PPE).
  2. **Isolation Protocols.** Employers must prevent an employee from remaining onsite if they have COVID-19 related symptoms. If an employee develops a COVID-19 infection or receives a positive test result, businesses and other organizations must take additional precautions to stop the virus from spreading further, as described in the City's *Guidance for Essential Businesses and Organizations During COVID-19* issued on April 20, 2020. Employers must report positive cases to the Philadelphia Department of Public Health.
  3. **Clear Barriers.** Businesses that can permit members of the public inside their premises and engage with them at sales counters, customer service stations, security and information desks, and similar locations must install clear plastic barriers between employees and customers and/or visitors that can block the path of respiratory droplets, except that retail businesses with less than 2000 square feet of space open to the public are not required to install clear plastic barriers until 30 days after the Effective Date and are advised to install the barriers as soon as practicable after the Effective Date.
  4. **Social Distancing.** Businesses must create and enforce policies that require social distancing onsite and adhere to industry-specific social distancing guidelines issued by the Commonwealth and City.
  5. **Crowd Reduction.** All businesses must manage occupancy and capacity as necessary to ensure social distancing and reduce crowding, and specifically:
    - retail shopping businesses must limit entry to a maximum of 5 total customers for every 1,000 square feet of public space in the facility;
    - offices, excluding healthcare providers, must limit entry to a maximum of 5 total persons for every 1,000 square feet of space in the facility; and

- all other businesses must continue to adhere to any industry specific orders and guidance regarding crowd-reduction issued by the Commonwealth or City.
6. **Handwashing.** Businesses must install handwashing stations or hand sanitizer at entryways and outside communal bathrooms for all staff, customers, and visitors, with prominent signage promoting use, and maintain compliance with any industry-specific handwashing or hand-sanitizing guidelines issued by the Commonwealth and City.
  7. **Cleaning.** Businesses must establish protocols and follow them for disinfecting high-touch surfaces, shared equipment, shared seating, or shared tools with disinfectant at least every four hours, and maintain compliance with industry-specific cleaning guidelines issued by the Commonwealth and City.
  8. **Communication.** Businesses must establish and execute protocols for educating employees about symptoms and prevention of COVID-19. Businesses must post signs prominently at entrances and employee breakrooms advising employees and customers or visitors of, at a minimum: universal masking requirements; applicable quarantine and isolation protocols; social distancing; and handwashing or sanitizing protocols.
- B. If emergency safety orders or safety guidance documents from multiple government agencies differ or conflict, the Philadelphia Department of Public Health recommends that businesses follow the most restrictive order or guidance applicable to their industry or business.

### **Section 3. Gatherings of Individuals**

The Governor’s Yellow Phase prohibition on gatherings of more than twenty-five (25) people shall be enforceable under the law. Philadelphia residents are advised that the Philadelphia Department of Public Health recommends that no public and private gatherings, of any number of people, outside a single household or living unit should occur until Philadelphia moves to the Green Phase.

### **Section 4. Suspension of Stay-At-Home Order; Advising Residents That They Are “Safer At Home”**

The City suspends the portion of the March 22 Order directing individuals to stay-at-home, consistent with the Governor’s suspension of stay-at-home orders for the Yellow Phase, subject to all other limitations of this Order. Notwithstanding the lifting of stay-at-home orders, the Philadelphia Department of Public Health advises Philadelphia residents that they are safer at home, and all Philadelphia residents have a responsibility to themselves and to each other to protect our city and our communities.

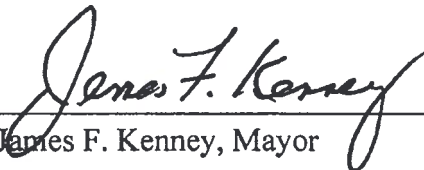
**Section 5. Interpretation of City Emergency Orders**

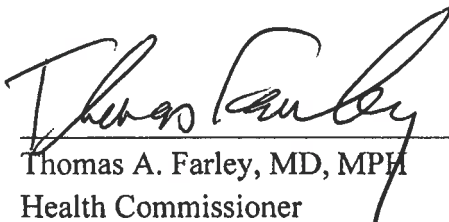
Unless otherwise stated, this Order shall be interpreted as consistent with applicable orders and requirements of the Commonwealth of Pennsylvania. The City shall continue to adhere to waivers, exemptions, or recategorizations issued by the Commonwealth from its emergency orders, subject to all applicable laws and regulations. The City shall continue reviewing inquiries and submissions regarding the applicability of the City’s orders to businesses and activities.

**Section 6. Effective Date and Duration**

This Order revises and supersedes the March 22 Emergency Order, as amended, in all respects in which it is inconsistent with such Order. This Order shall become effective on the effective date and time determined by the Governor that the City of Philadelphia should move into the Yellow Phase, which is currently expected to be June 5, 2020 at 12:01 AM (the “Effective Date”). This Order shall remain in effect until rescinded, superseded, or amended by further Order. 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: May 29, 2020

  
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James F. Kenney, Mayor  
City of Philadelphia

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