

DEPARTMENT OF LICENSES AND INSPECTIONS
EMERGENCY REGULATIONS UNDER PHILADELPHIA CODE
SECTION A-301.2.5(4) REGARDING TEMPORARY USES
FOR CERTAIN OUTDOOR DINING AND RETAIL ACTIVITIES

As part of a series of emergency declarations and orders, the Mayor and Health Commissioner determined on May 29, 2020, that Philadelphia could move to the Commonwealth's "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" ("Yellow Phase Order") to implement that decision, effective on the date determined by the Governor that the City of Philadelphia should move into the Yellow Phase, on June 5, 2020. It is anticipated that the Mayor and Health Commissioner will determine that outdoor dining can resume in Philadelphia, subject to all applicable health and safety requirements set forth in the Yellow Phase Order.

The Philadelphia Department of Licenses and Inspections ("Department") recognizes that the COVID-19 Pandemic is unprecedented. The City's top priority is maintaining public health and the safety of all Philadelphians and those who work and invest in the City; by taking proactive steps now we can help mitigate community spread. The Department also recognizes the advantages to commerce and public health of increasing the amount of space legally

available for use as outdoor dining and retail space in the City, as outdoor operations are inherently safer than indoor operations.

The Department of Licenses and Inspections (the Department) hereby adopts the following regulations regarding Zoning and Use Registration Permits and hereby determines that approvals for temporary outdoor dining and retail uses may be obtained under Subsection A-301.2.5(4) of The Philadelphia Code as provided herein.

A. L&I shall issue a temporary zoning and use approval for outdoor business operations as follows:

1. Eating and Drinking Establishments and Retail Sale uses operating under a valid zoning permit may be conducted outdoors at the location of the zoned establishment, subject to limitations imposed by a prior variance but notwithstanding code requirements to conduct business in a completely enclosed structure or parking requirements (e.g. a use may be expanded into an existing parking lot).
2. Eating and Drinking Establishments and Retail Sale uses may operate on a lot or an open portion of a lot, if permitted in the base zoning district with authorization of the owner. Parking requirements and restrictions imposed by an overlay shall be waived.
3. Temporary tents may be utilized in connection with such uses authorized under this regulation, provided such tents meet all applicable requirements of Title 4 of The Philadelphia Code, including Fire Code permitting requirements.
4. Each lot or outdoor area at which a use authorized under this regulation is allowed shall be permitted to have one portable sign. The sign is permitted to be 10 square feet in

area and no more than 5 feet in height. Portable signs shall be temporarily secured to resist rolling, blowing away, tipping over, or otherwise moving from their secured location.

B. All temporary use approvals under this regulation are subject to the following conditions and limitations:

1. An application in a form established by the Department must be submitted providing sufficient information to identify qualification of use of the proposed property or portion of property for the uses authorized in this regulation.
2. No temporary use under these provisions may commence until approval is granted.
3. A temporary use permitted under this section shall be valid for a period of up to 180 days, but in no event beyond December 31, 2020.
4. Outdoor operations may only be conducted between the hours of 8 am and 10 pm.
5. Businesses must ensure that its patrons and employees do not commit a private or public nuisance. In addition, there shall be no amplified music and no performance acts or similar activities.
6. All food establishments must comply with licensure requirements and Health Department regulations.
7. Trash storage must comply with Section 308 of the Philadelphia Property Maintenance Code. Trash collection must comply with the regulations of the Philadelphia Streets Department.

8. Open fire pits are prohibited. All outdoor heating appliances must comply with applicable provisions of Title 4 of The Philadelphia Code, including Section 307 of the Philadelphia Fire Code.
9. Operations must comply with the Commonwealth's and Mayor's Orders on business activity and public gatherings generally.
10. These regulations are only intended to address zoning restrictions that might limit outdoor operations. All business operations permitted under these regulations must comply with any and all applicable restrictions imposed under the Yellow Phase Order, all City ordinances and regulations otherwise applicable to such operations, including regulations of the Board of Health, and any subsequent revisions to those Orders and Regulations.

C. L&I reserves the right to rescind any approval given under these regulations and to order the activities on site to cease should operations pose a significant threat to health or safety or creates a public or private nuisance.

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