



**THIRD CONSOLIDATED AND RESTATED
SUPPLEMENTAL EMERGENCY REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
(CONSOLIDATED SAFETY MEASURES FOR FULL REOPENING AND
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, Sections 6-201 through 6-206 and 6-210 of The Philadelphia Code likewise vest the Board of Health, and in times of emergency the Department of Public Health, with the authority to forbid the congregation of persons when necessary to prevent the further spread of a communicable and quarantinable disease to take such other measures as are necessary to prevent the spread of such disease; and

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 Board 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 COVID-19 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 (“March 22, 2020 Emergency Order”), 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 on March 26, 2020, further expressly authorizing 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, the City has since imposed and rolled back restrictions as has been necessitated by the ebbs and flows of the pandemic, each of which beginning with the March 22, 2020 Emergency Order were adopted by this Board as emergency regulations; and on January 15, 2021 the Mayor and Health Commissioner issued a “Restated and Consolidated Emergency Order of 2021 Establishing Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise That Philadelphians Are Safer at Home” (the “January 15, 2021 Safer at Home Order”), which restated, consolidated, and amended the series of emergency orders jointly issued by the Health Commissioner and Mayor imposing public health restrictions responsive to the COVID-19 pandemic; and

WHEREAS, the Board of Health adopted the January 15, 2021 Safer at Home Order as a Consolidated and Restated Supplemental Regulation Governing the Control and Prevention of COVID-19 (Consolidated Safer at Home Restrictions and Delegation of Authority), which was also amended from time to time in light of the changing nature of the pandemic; and

WHEREAS, because COVID-19 vaccination rates continued to increase and case rates continued to fall, on June 15, 2021, the Mayor and Health Commissioner issued an “Emergency Order Establishing Safety Measures for Full Reopening to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19)” (the “June 15, 2021 Reopening Order”), which lifted most Philadelphia public health restrictions responsive to the COVID-19 pandemic while maintaining limited masking in high-risk settings and certain other requirements to facilitate a safer reopening given assessment of COVID-19 community spread and risk in Philadelphia; and

WHEREAS, on July 15, 2021 the Board of Health adopted the Second Consolidated and Restated Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated Measures for Full Reopening and Delegation of Authority) (“Second

Consolidated Emergency Regulation”), effective July 16, 2021, which among other things adopted the Mayor and Health Commissioner’s June 15, 2021 “Emergency Order Establishing Safety Measures for Full Reopening to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19)” (“Full Reopening Order”); and

WHEREAS, by mid-August 2021 cases started to rise quickly and Philadelphia was in the CDC substantial transmission category; and

WHEREAS, indoor activities, and in particular indoor activities where individuals gather without masks or where individuals gather for extended periods, or both, increase the likelihood of the spread of COVID-19; and

WHEREAS, it is well established that widespread mask use can prevent the spread of the virus that causes COVID-19, including new variants of concern, and particularly indoors, and observational data has suggested that people who wear masks and become infected may be less likely to develop severe disease; and

WHEREAS, mandatory masking is necessary to avoid preventable deaths and limit the spread of the coronavirus to continue to allow indoor activities and certain large outdoor events to continue to operate; and

WHEREAS, on August 11, 2021, the Mayor and Health Commissioner promulgated an amendment to the Full Reopening Order to require masking in additional circumstances in light of the rising case rates and hospitalizations; and

WHEREAS, on August 12, 2021 the Board of Health adopted the Amendment to the Second Consolidated and Restated Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated Measures for Full Reopening and Delegation of Authority) (“Amendment to the Second Consolidated Emergency Regulation”), effective August 13, 2021, which among other things adopted the Mayor and Health Commissioner’s August 11, 2021 “Amendment to the Emergency Order Establishing Safety Measures for Full Reopening to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) (Additional Masking Requirements in Certain Circumstances)”; and

WHEREAS, safe, highly effective COVID-19 vaccines are now widely available in the United States; and

WHEREAS, administration of a COVID-19 vaccine is a medically accepted and recommended form of prophylactic treatment that dramatically reduces the likelihood of experiencing a symptomatic SARS-CoV-2 infection, and recent studies show that available

COVID-19 vaccines also reduce asymptomatic infection and transmission; and

WHEREAS, COVID-19 vaccines are now readily available for all eligible individuals five years of age and older, while those four years of age and under remain ineligible for vaccination and therefore subject to greater exposure of infection and transmission; and

WHEREAS, it is well established that COVID-19 vaccines remain effective even against infection with the Delta variant, the Omicron variant, and other recent variants of concern; and

WHEREAS, broad distribution and uptake of COVID-19 vaccines is essential to ending the COVID-19 pandemic; and

WHEREAS, this Board has further considered and adopted various additional regulations after adoption of the Amendment to the Second Consolidated Emergency Regulation that are not listed in the Amendment to the Second Consolidated Emergency Regulation but are still in effect; and

WHEREAS, the Omicron variant led to a huge surge in cases in Philadelphia and across the country, with daily cases in Philadelphia peaking at more than 3500 cases per day in early January, with an equally sharp drop in cases over the second half of January and the first half of February down to an average of fewer than 225 cases per day; 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 before the Board is able to meet, and likewise has determined that a consolidated and restated regulation summarizing certain applicable control and prevention methods would be helpful at this time; and

WHEREAS, the Mayor and the Health Commissioner has recently announced that the City would like to use certain objective metrics to identify when certain precautions can be rolled back and others should be imposed; and

WHEREAS, consistent with the foregoing, the Board hereby promulgates the below Third Consolidated and Restated Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated Safety Measures for Full Reopening and Delegation of Authority) in order to consolidate and restate specified Board emergency regulations, 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 formally promulgated regulation;

NOW, THEREFORE, the Board of Health hereby adopts the following regulation, effective immediately:

A. This Third Consolidated and Restated Emergency Regulation supplements the Philadelphia Department of Public Health’s *Regulations Governing the Control of Communicable and Non-communicable Diseases and Conditions*; incorporates all active regulations and orders governing the control and prevention of COVID-19, except as identified in paragraph C, below; and supersedes the Second Consolidated and Restated Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Second Consolidated Safer at Home Restrictions and Delegation of Authority), as it has been amended, and the Tenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Second Mandatory Data Reporting Order).

B. The Consolidated and Restated Safety Measures for a Continued Full Reopening to Prevent the Spread of 2019 Novel Coronavirus (COVID-19) (the “Consolidated Safety Measures”), attached hereto as Attachment A, which is a consolidation of the currently applicable rules with minor clarifications as well as the rescission of the outdoor event mask mandate, shall govern the conduct of all businesses and activities operating in the City while this Third Consolidated and Restated Emergency Regulation is in effect, with the following modification:

1. Section 1(A)(3)(d) of the Consolidated Safety Measures (concerning required face coverings in indoor settings other than schools, healthcare institutions, and congregate settings) shall cease to be effective upon the Commissioner’s determination and certification to the Board and the Mayor that Philadelphia has entered the “All Clear” COVID-19 response level because three (3) or more of the following metrics have been reached, provided that the requirements of Section 1 may be reinstated, with any additional requirements that the Commissioner determines are necessary or appropriate, pursuant to the Commissioner’s authority under Paragraph D, below:

- i. The average daily case count of reported COVID-19 cases for the prior seven (7) days is under 100.
- ii. Hospitalizations related to COVID-19 cases are under 50.
- iii. The positivity rate for COVID-19 tests is under 2%.
- iv. The average daily case count for reported COVID-19 cases has not risen by more than 50% within the prior 10 days.

C. The following COVID-19 related regulations are not affected by this Third Consolidated and Restated Emergency Regulation:

1. **Communicable Disease Listing, Reporting, Quarantine, and Isolation Requirements:** The March 12, 2020 and May 15, 2020 Amendments to Regulations Governing the Control of Communicable and Noncommunicable Diseases and Conditions.

2. **Surveillance & Data Reporting Related Regulations:**

a. The Sixth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Mandatory Data Reporting Order);

b. the Regulation Relating to Perinatal COVID-19 Surveillance by the Division of Maternal, Child, and Family Health of the Philadelphia Department of Public Health.

3. **Long Term Care Facility Related Emergency Regulation:** The Seventeenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Long-Term Care Isolation Safety and Transfer).

4. **Fines and Penalties:** April 29, 2020 Emergency Regulation of the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties.

5. **Vaccine Information Statements Regulation:** The Emergency Regulation for the Control and Prevention of COVID-19 Supplementing the Regulation Governing the Immunization and Treatment of Newborns, Children, and Adolescents (Vaccine Information Statements).

6. **Vaccine Mandates:**

a. The Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Healthcare Workers and in Higher Education, Healthcare, and Related Settings; and

b. the Emergency Regulation Governing the Control and Prevention of COVID-19 Mandating Vaccines for Individuals Working and Dining at Indoor Dining Locations.

D. **Delegation of Authority.** In addition to all authority delegated to the Health Commissioner to issue emergency disease control and prevention orders under the Disease Control and Prevention Act and The Philadelphia Code, the Board expressly authorizes the Health Commissioner as follows, provided the Health Commissioner continues to present any substantive changes to this Board's regulations to the Board for consideration at or before the

Board's next previously scheduled meeting if reasonably practicable, or at the next subsequent meeting, if not reasonably practicable:

1. The Health Commissioner may issue orders to provide for the implementation of such further measures as the Health Commissioner determines in good faith are necessary or appropriate control or prevention measures to limit the spread of COVID-19, which may include, but are specifically not limited to the following types of measures which are provided as examples but should not be interpreted as limiting the broad authority this Third Consolidated and Restated Emergency Regulation grants the Health Commissioner to implement effective control measures:

- a. Requiring hospitals and other health care providers or facilities to report data on patient volumes, supplies, and equipment to the Department periodically or upon request;
- b. Requiring any business in Philadelphia to report data on supplies and equipment to the Department periodically or upon request;
- c. Commandeering real estate, supplies, or equipment;
- d. Restricting the travel of individuals or of categories of individuals;
- e. Requiring individuals that have traveled outside of Philadelphia to self-quarantine or take such other protective measures as the situation warrants for such time period as the Commissioner determines is reasonably necessary under the circumstances then presenting;
- f. Requiring any disease control or prevention measures adopted in previously enacted emergency regulations of this Board, whether or not currently in effect;
- g. Requiring any disease control or prevention measures adopted by other jurisdictions for the purpose of limiting the spread of COVID-19; or
- h. Imposing any similar disease control and prevention measures.

2. The Health Commissioner may interpret, issue guidance concerning, 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 Third Consolidated and Restated Emergency Regulation, as the Health Commissioner determines in good faith is necessary or appropriate to limit the spread of COVID-19.

E. The Health Commissioner may delegate, in writing, the authority delegated under paragraph 4 of this Third Consolidated and Restated Emergency regulation to other City Departments or Boards, or Commissioners or heads thereof, as the Health Commissioner determines is appropriate under the circumstances.

F. Failure to comply with this Third Consolidated and Restated Emergency regulation, any orders issued hereunder, or any of the regulations identified in paragraph C of this regulation, shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other remedies as provided for by law, including such penalties and remedies set forth in the April 29, 2020 Emergency Regulation of the Board of Health Governing the Control and Prevention of COVID-19 Pertaining to Fines and Penalties.

G. **Effective dates.** This Third Consolidated and Restated Emergency Regulation shall be effective upon filing with the Department of Records and shall remain effective until expressly suspended, superseded, or repealed by the Board.

ATTACHMENT A

CITY OF PHILADELPHIA BOARD OF HEALTH

Consolidated and Restated Safety Measures for a Continued Full Reopening to Prevent the Spread of 2019 Novel Coronavirus (COVID-19)

Section 1. Generally Applicable Requirements for Face Coverings.

All businesses that are operating within the City of Philadelphia must comply with the following requirements, as clarified by any guidance issued by the Department, provided that nothing is intended to prohibit any establishment from implementing face covering requirements for such establishment if they choose to do so, nor do these Consolidated and Restated Safety Measures for a Continued Full Reopening to Prevent the Spread of 2019 Novel Coronavirus (COVID-19) (the “Consolidated Safety Measures”) relax any face covering requirements mandated by the Commonwealth of Pennsylvania.

A. Face Coverings Required.

1. All individuals must wear face coverings on all forms of public transportation consistent with applicable Orders of the Centers for Disease Control and Prevention (“CDC”).
2. All individuals, including customers, and employees or other workers, must be permitted to wear face coverings if they choose to do so.
3. Except as provided in subsection B, “Exceptions,” all individuals must wear face masks or other face coverings recommended by the CDC as follows, regardless of vaccination status, unless otherwise expressly provided. Individuals are required to wear face coverings properly, which means in a manner that fully covers the mouth and nose, consistent with applicable guidance, at all times when they are at the following locations:
 - a. Healthcare institutions, including temporary community healthcare events such as vaccine clinics and blood drives.
 - b. Congregate facilities such as prisons, shelters, and adult day programs.
 - c. Indoors, while at all schools (kindergarten through twelfth grade), camps, early childhood education, and other childcare settings operating in the City.
 - d. Any indoor setting, provided that this subsection 3(d) shall not be applicable if the Health Commissioner has submitted a certification consistent with paragraph

(B)(1) of the Third Consolidated and Restated Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated Safety Measures for Full Reopening and Delegation of Authority) and has not reimposed this requirement. Further, this requirement does not apply if the business operating at the setting is not an essential business and such business requires everyone on site to be Fully Vaccinated and has instituted a reasonable procedure for confirming vaccination status of staff, customers, and any other individuals present. For the purpose of these Consolidated Safety Measures:

(i) “Indoor” means a location enclosed by three or more walls or other non-permeable barriers and an overhead covering, such as a roof or a tent top. 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.

(ii) “Essential Business” means a grocery store, pharmacy, doctor’s office, emergency or urgent care medical facility, or similar facilities patronage of which is essential for daily living or needed on an emergency basis.

B. Exceptions.

1. Section 1(A)(3) is not applicable to the following individuals:

- a. Any child younger than 2 years of age.
- b. Any individual who has a physical disability that prevents easily wearing or removing a face covering.
- c. Any individual who is deaf and uses facial and mouth movements as part of communication.
- d. Any individual who has been advised by a medical professional that wearing a face covering may pose a risk to that individual for health-related reasons.
- e. Any individual who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.

2. Other exceptions.

- a. Face coverings are not required to be worn when eating or drinking, provided that eating and drinking may only take place when seated, or when standing at a table with four or fewer people.

b. Face coverings are not required when an individual is alone in an office or a similar location that is completely separated from other individuals by floor to ceiling physical barriers.

c. Face coverings are not required to be worn when swimming.

Section 2. Contact Tracing, Worker Isolation and Quarantine Requirements for Businesses and Workers.

All businesses and organizations that are operating within the City of Philadelphia must comply with the following requirements, as clarified by any guidance issued by the Department:

A. **Contact Tracing:** Businesses and organizations shall identify workers and customers, to the extent possible, who were in close contact (within six feet for at least 15 minutes) with a person with COVID-19 from the period 48 hours before symptom onset (or 48 hours prior to test date if asymptomatic) to the time at which the person with COVID-19 isolated and, upon written request from the Health Commissioner or a designee, shall immediately provide the information specified in the request to the Philadelphia Department of Public Health, as follows:

1. Requests may include:

- a. name;
- b. date of birth;
- c. demographic information, including sex, race, and ethnicity;
- d. contact information, including phone number, address and email address; and
- e. such other information as specified in the request that the Health Commissioner has determined is necessary for efficient case management or contact tracing purposes, taking into consideration the time sensitivity of such control activities.

2. Any information obtained under this Section shall be confidential and shall not be subject to public disclosure or disclosure outside the Health Department except to the extent necessary for the Department to perform its obligations under the Disease Control and Prevention Act and the Department's associated regulations, including necessary contact tracing. All such confidential information will be maintained in a manner consistent with the

confidentiality standards applicable to the Department's maintenance of case records as set forth at 28 Pa. Code § 27.5a.

C. **Worker Isolation and Quarantine:** Businesses and organizations shall permit any worker who is diagnosed with or tests positive for COVID-19 to remain absent from any in-person workplace during isolation in accordance with guidance from the Philadelphia Department of Public Health or a health care provider. The worker shall isolate in accordance with such guidance.

D. Businesses and organizations shall permit any worker who is a close contact (as provided in subsection A, above) of a person who is diagnosed with or tests positive for COVID-19 to remain absent from any in-person workplace during quarantine in accordance with guidance from the Philadelphia Department of Public Health or a health care provider, unless the person is up to date with their vaccines against COVID-19. For the purpose of these Consolidated Safety Measures up to date means that the vaccinated individual has received all doses of the COVID-19 vaccine for which they are eligible as recommended by the FDA or WHO. The worker shall quarantine in accordance with such guidance.

Section 3. Additional Responsibility for Masking, Contact Tracing, Worker Isolation and Quarantine, and Signage Requirements.

A. The owner or operator of any business or organization shall also be liable and subject to fines and penalties under this Order for non-compliance by employees, customers, members, visitors and any other occupants of the business with the following, subject to fines and all other remedies under this Order:

1. With respect to applicable masking requirements under Section 3 of these Consolidated Safety Measures or any other applicable guidance documents; and

2. With respect to contact tracing and worker isolation and quarantine requirements under Section 2, excluding the actual isolation and quarantine requirements that are the responsibility of individual workers, and any other applicable guidance.

B. The owner or operator of any business is required to prominently display signage advising of health and safety requirements to the extent required in applicable guidance of the Department of Public Health.

Section 4. Interpretation and Implementation.

A. Except to the extent of a direct conflict, these 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 and regulations to businesses and activities.

B. Consistent with prior emergency health orders and regulations of the City, except as expressly stated, these Consolidated Safety Measures do not apply to government operations of the City of Philadelphia. Individuals interacting with government officers and employees must comply with the requirements of these Consolidated Safety Measures and other City orders, regulations, and guidance.

C. The owners, operators, and individuals in possession of any business or organization subject to these Consolidated Safety Measures must allow inspection of ongoing operations and submit such reporting as required by Section 2 of these Consolidated Safety Measures, as further clarified in any guidance issued by the Department of Health, as a condition of operation.