



CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

BOARD OF HEALTH: January 20, 2021
LAW DEPARTMENT: January 20, 2021
RECORDS DEPARTMENT:

**CONSOLIDATED AND RESTATED
SUPPLEMENTAL EMERGENCY REGULATION GOVERNING
THE CONTROL AND PREVENTION OF COVID-19
(CONSOLIDATED SAFER AT HOME RESTRICTIONS 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, 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; and

WHEREAS, on or around May 28, 2020, the Department of Public Health began releasing industry specific reopening guidance for specific types of facilities, which has been periodically updated; 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 many different types of business and activities; 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, 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 had hastily reopened, the City took a cautious approach to moving to the Green Phase; and

WHEREAS, on July 3, 2020, the Mayor and Health Commissioner issued an Order entitled “Amendment Regarding Additional Permitted Activities to 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): Moving from Yellow Phase of Reopening to Modified Green Phase” (the “Modified Green Phase Order”), that moved the City from the Yellow Phase to a Modified Green Phase and that, among other things, generally increased the permitted capacity for outdoor gatherings and small events, the rules for which were subsequently modified by further Orders on September 15, 2020 and October 23, 2020 to allow greater capacity at such events; and

WHEREAS, after a steady decline and plateauing of daily COVID-19 case counts in Philadelphia beginning in May of this year, in the Fall daily case counts increased dramatically to levels exceeding the peak experienced in April; and

WHEREAS, in early-to-mid November the country as a whole began experiencing a sharp increase in COVID-19 case counts, repeatedly breaking daily records, and began averaging more than 2,000 daily COVID-19 deaths (using a 7-day average); and

WHEREAS, those alarming national and local trends required tailored but significant intervention to limit the community spread of COVID-19 and its attendant morbidity and mortality; and

WHEREAS, on November 16, 2020, the Mayor and Health Commissioner issued an Order entitled “Emergency Order Concerning Additional Limitations on Visiting, Gatherings, Events and Businesses for Fall/Winter 2020-21, Establishing Additional Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise that Philadelphians are Safer at Home” (the “Fall/Winter Order”) that, *inter alia*, prohibited the operation of certain indoor establishments with a demonstrated higher risk of transmission of COVID-19 and imposed additional limitations on personal gatherings, outdoor gatherings, and indoor businesses that were permitted to continue to operate effective November 20, 2020; and

WHEREAS, the Fall/Winter Order was adopted by the Board as the Eighteenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Safer at Home Fall-Winter Restrictions) on November 24, 2020; and

WHEREAS, on November 27, 2020, the Governor and Secretary of Health enacted orders imposing mitigation measures imposing density limitations, cleaning, and masking protocols, and requiring telework for all business operations unless such remote work was impossible; and

WHEREAS, at the time the Fall/Winter Order was issued the City had a higher rate of new COVID-19 cases than Pennsylvania as a whole; following the imposition of such restrictions, the City saw a notable decrease in the rate of COVID-19 cases and the City has thereafter continued to maintain a lower rate of cases than Pennsylvania as a whole, despite being the most populous City in the state; and

WHEREAS, the City saw a marked increase in COVID-19 cases following the Thanksgiving holiday with a peak on or around, December 7, 2020, but then saw a declining rate in new infections; and

WHEREAS, statewide Pennsylvania experienced a similar post-Thanksgiving holiday increase in COVID-19 cases and the Pennsylvania case count continued to increase even after the City case counts began to decline. Effective December 12, 2020, the Governor of Pennsylvania and Secretary of State imposed additional restrictions state-wide, including prohibitions on indoor dining and indoor recreation facilities, which were in place through January 4, 2021; and

WHEREAS, following such restrictions imposed at the state level, Pennsylvania then begun seeing a decline in cases; and

WHEREAS, the City anticipated that, despite restrictions, the Christmas and New Year holidays would result in additional gatherings and further spread of COVID-19 as was seen around Thanksgiving; it therefore issued an Amended Fall/Winter Order on December 30, 2021, which extended the Fall/Winter Order, with certain amendments, in order to continue to impose necessary yet tailored mitigation methods for higher risk activities through January 15, 2021. This Order was adopted as an emergency Board regulation on January 6, 2021; and

WHEREAS, following a peak the week of November 29, 2020, there has been a 50% decline in the number of new infections per week through the week of January 3, 2021, the positivity rate for those tested has also declined since its November peak, and positive case rates have been relatively stable over the past 14 days. However, rate of community spread of COVID-19 in Philadelphia remains high and measures to continue to reduce its spread must be maintained and observed; and

WHEREAS, the Mayor and Health Commissioner have determined that it is appropriate to allow indoor dining, movie theaters and performance spaces to resume operations, with necessary yet tailored mitigation methods to limit the potential spread of COVID-19; and

WHEREAS, there is substantial evidence that widespread mask use can prevent the spread of COVID-19, and observational data has suggested that people who wear masks and become infected may be less likely to develop severe disease; and

WHEREAS, inside activities, and in particular inside 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, the Department of Public Health and other public health experts have identified that, although COVID-19 continues to be spread through a variety of settings and activities, social gatherings, including small social gatherings are a significant and deceptively dangerous driver of the COVID-19 pandemic; and

WHEREAS, studies have indicated and public health experts have concluded that indoor dining is a significant driver of the COVID-19 pandemic, in part because it is not possible to wear a mask while eating or drinking; and

WHEREAS, restricting dining to four persons per table provides an easily observable measure for restaurants to enforce in order to support the requirement that only single households will dine together, in compliance with current restrictions, and reduces the risk to diners and staff when a table of diners chooses not to comply with the single-household dining restriction; and

WHEREAS, the spread of COVID-19 through outdoor gatherings and activities is less likely than through indoor gatherings and activities, but still represents a significant risk, particularly in the absence of strict mask usage, which is not possible when eating or drinking; and

WHEREAS, indoor gatherings and other activities where people remain in close proximity to individuals from other households for more than a few minutes create significant opportunities for the transmission of COVID-19, particularly when compared to outdoor gatherings and indoor activities where gatherings involve greater transience and flow of people; and

WHEREAS, in-person work increases the risk of exposure to COVID-19, reinforcing the importance of working remotely whenever possible; and

WHEREAS, continued mitigation of higher risk activities is necessary to avoid preventable deaths and limit the spread of the coronavirus during this critical time in the pandemic; and

WHEREAS, the City has imposed and rolled back restrictions as has been necessitated by the ebbs and flows of the pandemic within the past ten (10) months, as detailed above, 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 agrees with these determinations, 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, consistent with the foregoing, the Board hereby promulgates the below Consolidated and Restated Emergency Regulation Governing the Control and Prevention of COVID-19 (Consolidated Safer at Home Restrictions and Delegation of Authority) in order to

adopt the Mayor and Health Commissioner's January 15, 2021 Safer at Home Order and 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:

1. **Adoption of Safer at Home Order.** The Board hereby fully adopts the Mayor and Health Commissioner's January 15, 2021 Safer at Home Order, which is attached hereto as Attachment A.

2. This 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* and restates, consolidates, and supersedes the following COVID-19 related emergency regulations, or specified portions thereof, previously promulgated by the Board:

- A. The Board's March 26, 2020 Emergency Regulation Governing the Control and Prevention of COVID-19;
- B. The Board's Second, Fifth, Seventh, Eighth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Eighteenth, and Nineteenth Supplemental Emergency Regulations Governing the Control and Prevention of COVID-19; and
- C. Paragraphs 4 through 5 of the Fourth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Delegation of Authority).

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

- A. **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;
- B. **Construction Related Emergency Regulations:** The Third and Ninth Supplemental Emergency Regulations Governing the Control and Prevention of COVID-19 (Authorized Construction Activity), as well as paragraphs 1 through 3, and 6 of the Fourth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Delegation of Authority), dealing with authorized construction activity;
- C. **Data Reporting Related Emergency Regulations:** The Sixth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Mandatory Data Reporting Order); and the Tenth Supplemental Emergency

Regulation Governing the Control and Prevention of COVID-19 (Second Mandatory Data Reporting Order); and

- D. **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. **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:

A. 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 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.

B. 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 Consolidated and Restated Emergency Regulation, as the Health Commissioner determines in good faith is necessary or appropriate to limit the spread of COVID-19.

5. The Health Commissioner may delegate, in writing, his authority under paragraph 4 of this 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.

6. **Effective dates.** This 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, provided that the restrictions in the Mayor and Health Commissioner's January 15, 2021 Safer at Home Order, adopted by the Board, shall expire at the end of the day February 28, 2021, unless such Safer at Home Order is further extended by Order of the Health Commissioner or by further regulation of the Board of Health.

Attachment A



CITY OF PHILADELPHIA
OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

**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**

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 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 of Health 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, 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; and

WHEREAS, on or around May 28, 2020, the City’s Department of Public Health began releasing industry specific reopening guidance for specific types of facilities, which has been periodically updated; 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 many different types of business and activities; 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, 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 had hastily reopened, the City took a cautious approach to moving to the Green Phase; and

WHEREAS on July 3, 2020, the Mayor and Health Commissioner issued an Order entitled “Amendment Regarding Additional Permitted Activities to 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): Moving from Yellow Phase of Reopening to Modified Green Phase” (the “Modified Green Phase Order”), that moved the City from the Yellow Phase to a Modified Green Phase and that, among other things, generally increased the permitted capacity for outdoor gatherings and small

events, the rules for which were subsequently modified by further Orders on September 15, 2020 and October 23, 2020 to allow greater capacity at such events; and

WHEREAS, after a steady decline and plateauing of daily COVID-19 case counts in Philadelphia beginning in May of this year, in the Fall daily case counts increased dramatically to levels exceeding the peak experienced in April; and

WHEREAS, in early-to-mid November the country as a whole began experiencing a sharp increase in COVID-19 case counts, repeatedly breaking daily records, and began averaging more than 2,000 daily COVID-19 deaths (using a 7-day average); and

WHEREAS, those alarming national and local trends required tailored but significant intervention to limit the community spread of COVID-19 and its attendant morbidity and mortality; and

WHEREAS, on November 16, 2020, the Mayor and Health Commissioner issued an Order entitled “Emergency Order Concerning Additional Limitations on Visiting, Gatherings, Events and Businesses for Fall/Winter 2020-21, Establishing Additional Safety Measures to Prevent the Spread of the 2019 Novel Coronavirus (COVID-19) and Continuing to Advise that Philadelphians are Safer at Home” (the “Fall/Winter Order”) that, *inter alia*, prohibited the operation of certain indoor establishments with a demonstrated higher risk of transmission of COVID-19 and imposed additional limitations on personal gatherings, outdoor gatherings, and indoor businesses that were permitted to continue to operate effective November 20, 2020; and

WHEREAS, the Fall/Winter Order was adopted by the Board of Health as the Eighteenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Safer at Home Fall-Winter Restrictions) on November 24, 2020; and

WHEREAS, on November 27, 2020, the Governor and Secretary of Health enacted orders imposing mitigation measures imposing density limitations, cleaning, and masking protocols, and requiring telework for all business operations unless such remote work was impossible; and

WHEREAS, at the time the Fall/Winter Order was issued the City had a higher rate of new COVID-19 cases than Pennsylvania as a whole; following the imposition of such restrictions, the City saw a notable decrease in the rate of COVID-19 cases and the City has thereafter continued to maintain a lower rate of cases than Pennsylvania as a whole, despite being the most populous City in the state; and

WHEREAS, the City saw a marked increase in COVID-19 cases following the Thanksgiving holiday with a peak on or around, December 7, 2020, but then saw a declining rate in new infections; and

WHEREAS, statewide Pennsylvania experienced a similar post-Thanksgiving holiday increase in COVID-19 cases and the Pennsylvania case count continued to increase even after the City case counts began to decline. Effective December 12, 2020, the Governor of Pennsylvania and Secretary of State imposed additional restrictions state-wide, including prohibitions on indoor dining and indoor recreation facilities, which are in place through January 4, 2021; and

WHEREAS, following such restrictions imposed at the state level, Pennsylvania then begun seeing a decline in cases; and

WHEREAS, the City anticipated that, despite restrictions, the Christmas and New Year holidays would result in additional gatherings and further spread of COVID-19 as was seen around Thanksgiving; it therefore issued an Amended Fall/Winter Order on December 30, 2021, which extended the Fall/Winter Order, with certain amendments, in order to continue to impose necessary yet tailored mitigation methods for higher risk activities through January 15, 2021. This Order was adopted as an emergency Board of Health regulation on January 6, 2021; and

WHEREAS, following a peak the week of November 29, 2020, there has been a 50% decline in the number of new infections per week through the week of January 3, 2021, the positivity rate for those tested has also declined since its November peak, and positive case rates have been relatively stable over the past 14 days. However, rate of community spread of COVID-19 in Philadelphia remains high and measures to continue to reduce its spread must be maintained and observed; and

WHEREAS, the Mayor and Health Commissioner have determined that it is appropriate to allow indoor dining, movie theaters and performance spaces to resume operations, with necessary yet tailored mitigation methods to limit the potential spread of COVID-19; and

WHEREAS, there is substantial evidence that widespread mask use can prevent the spread of COVID-19, and observational data has suggested that people who wear masks and become infected may be less likely to develop severe disease; and

WHEREAS, inside activities, and in particular inside 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, the Department of Public Health and other public health experts have identified that, although COVID-19 continues to be spread through a variety of settings and activities, social gatherings, including small social gatherings are a significant and deceptively dangerous driver of the COVID-19 pandemic; and

WHEREAS, studies have indicated and public health experts have concluded that indoor dining is a significant driver of the COVID-19 pandemic, in part because it is not possible to wear a mask while eating or drinking; and

WHEREAS, the spread of COVID-19 through outdoor gatherings and activities is less likely than through indoor gatherings and activities, but still represents a significant risk, particularly in the absence of strict mask usage, which is not possible when eating or drinking; and

WHEREAS, indoor gatherings and other activities where people remain in close proximity to individuals from other households for more than a few minutes, such as in indoor entertainment facilities, create significant opportunities for the transmission of COVID-19, particularly when compared to outdoor gatherings and indoor activities where gatherings involve greater transience and flow of people; and

WHEREAS, in-person work increases the risk of exposure to COVID-19, reinforcing the importance of working remotely whenever possible; and

WHEREAS, continued mitigation of higher risk activities is necessary to avoid preventable deaths and limit the spread of the coronavirus during this critical time in the pandemic; and

WHEREAS, the City has entered various orders imposing and rolling back restrictions as has been necessitated by the ebbs and flows of the pandemic within the past ten (10) months, as detailed above, and has determined at this time that it is appropriate to issue a Restated and Consolidated Order;

WHEREAS, pursuant to authority set forth in The Philadelphia Code and 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, applicable state law, and Board of Health regulations 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;

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. Consolidation and Amendment of Prior COVID-19 Emergency Orders

This Order restates, consolidates, and amends all joint COVID-19 Emergency Orders that have been issued by both the Mayor and Health Commissioner, except as otherwise specifically stated in this Order, and is intended to consolidate all active requirements contained in such orders. This Order does not replace or supersede emergency orders issued by the Health Commissioner that were not joint orders with the Mayor, including, but not limited to:

1. The Emergency Order Concerning Mandatory Reporting of Certain Data to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), adopted by the Board of Health as the Sixth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Mandatory Data Reporting Order).
2. The Second Emergency Order Concerning Mandatory Reporting of Certain Data to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), adopted by the Board of Health as the Tenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Second Mandatory Data Reporting Order).
3. The Emergency Order Concerning Isolation Safety and Transfer Requirements for Long-Term Care Facilities and Hospitals to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), adopted by the Board of Health as the Seventeenth Supplemental Emergency Regulation Governing the Control and Prevention of COVID-19 (Long-Term Care Isolation Safety and Transfer).

Section 2. Definitions.

For purposes of this Order:

A. “Gathering” means any pair or group of individuals who reside in different households who are in close proximity of one another for more than several minutes.

B. “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.

Section 3. Permissible Gatherings and Events

A. **Indoor gatherings or events.** Except as otherwise provided in this Order, indoor gatherings or events involving persons from more than one household in a residence or other private indoor location, other than to provide necessary care for a family member or as necessary due to emergency circumstances, are prohibited.

1. Governmental and private personal care services (*e.g.*, governmental home visitation programs, home health aides, and childcare services) that require access to a person's home to provide such services are permitted.

2. Home-based construction, renovation, repair and maintenance is permitted.

3. Any person from outside a household entering the home for a purpose authorized under this or any other applicable order shall strictly comply with applicable Commonwealth and City guidance, including masking and distancing requirements.

B. **Outdoor Gatherings or Events.** Except as otherwise provided in this Order, outdoor social gatherings or events involving people from more than one household are limited as follows:

1. No more than 10 people are permitted per 1,000 square feet of occupiable space and no more than 2,000 people total may gather;

2. Outdoor events with food and/or drink consumption are permissible, provided that such gatherings are limited to a maximum of twenty-five (25) people, with a maximum of four (4) people per table, and that they are conducted in strict compliance with all orders, regulations, and guidance of the City and Commonwealth regarding food and drink consumption, including masking, social distancing, and density requirements.

C. For events or gatherings that take place in both indoor and outdoor portions of a facility, the outdoor limitations apply to the portions of the facility that are outdoors, and the indoor limitations apply to the portion that is indoors.

Section 4. Remote Work Requirements and In Person Operations

A. All business operations must be conducted remotely, through the individual teleworking of employees unless:

1. the operations involve the direct and in-person provision of services

(such as medical services) or on-site provision of services (such as construction);

2. the City has specifically authorized the type of business activities to be conducted in person by order or regulation; or

3. on-site business operations are impossible to conduct remotely.

B. Where telework is impossible, or in-person work is otherwise authorized, employees may conduct in-person business operations only for that portion of work that is authorized to be conducted in person or that is impossible to be conducted by telework, provided that all such in-person operations are conducted in strict compliance with all applicable orders, regulations, and guidance of the City and Commonwealth, including orders and guidance applicable to the specific business or activity, including masking, social distancing, and density requirements. Reduced efficiency experienced by conducting business operations offsite does not constitute impossibility.

C. All indoor operations are subject to density limits provided in Section 5 of this Order.

Section 5. Limitations for Specific Indoor Businesses and Other Activities.

In addition to all other requirements of this Order, which apply to all businesses and activities, including the face covering and social distancing requirements provided in Section 9 of this Order, the following businesses and activities are permitted only in compliance with the following additional restrictions, and only if all applicable Commonwealth and City guidance, is strictly followed. City guidance applicable to particular businesses and activities is available at <https://www.phila.gov/programs/coronavirus-disease-2019-covid-19/guidance/guidance-documents/#/>.

Unless a more restrictive density limit is specifically provided, all activities, businesses, and gatherings that are allowed to operate indoors under Sections 4 and 5 of this Order, other than schools, access centers, and child daycare settings, are subject to the following density limits:

(1) For venues with fixed seating, a maximum of ten percent (10%) of the fixed-seating capacity.

(2) For facilities without fixed-seating, a maximum of percent (10%) of the permitted occupancy, if such occupancy is posted. If permitted occupancy is not posted, the limit shall be 10 people per 1,000 square feet of occupiable space. These density limits include workers and any in-person clientele.

For allowable businesses or activities that take place in multiple spaces within a single facility, the density limit for fixed seating applies to those spaces that have fixed seating, and the density limit for non-fixed seating applies to those spaces that do not have fixed seating.

A. Educational Settings.

In person instruction is permitted in all child daycare settings and all educational settings, including colleges universities and all other types of vocational, trade or other classroom-based educational programs, provided they must remain in strict compliance with all applicable City and Commonwealth orders and guidance, including masking, social distancing, and density requirements, as well as gathering size limitations and specific guidance applicable to non-instructional periods.

B. Non-Restaurant Retail and Personal Service Establishments. Retail and personal care service establishments, as well as indoor malls, may operate, subject to all applicable City and Commonwealth orders and guidance, including density, social distancing and masking requirements.

C. Gyms and Indoor Exercise Facilities. Operation of gyms and indoor physical recreation and exercise facilities are generally permitted, with the following additional restrictions.

1. Classes and similar group activities, including non-competitive practices and skills and drills training in all of the sports listed in this subsection C, must be limited to no more than 10 participants and all distancing requirements and applicable guidelines must be followed.

2. Multi-player competitive activities are permitted in the following sports, provided no spectators are allowed, not including the minimum number of parents needed to supervise the activities of young children, and tournaments of more than two teams are not allowed: bowling, diving, equestrian, fencing, swimming, tennis, track, gymnastics, acrobatics and tumbling, baseball and softball.

3. For the following higher-risk sports, except as provided in subsections 4 below, multi-player competitive activities are permitted only in school-sponsored practices or games at the high school level, subject to any applicable guidance, including testing requirements as may be established therein: basketball, football, ice hockey, floor hockey, indoor soccer, squash, volleyball, water polo, wrestling and boxing.

a. No spectators or tournaments are permitted in connection with any such competitive activities.

b. Activities in such sports that are not high-school-sponsored competitive activities may involve only skills and drills in classes or groups of up to 10 people, with no spectators.

4. Collegiate and professional sports may operate solely pursuant to health and safety plans specifically approved by the Department of Public Health, which shall include spectators at games or events only as specifically authorized in such plans.

D. **Recreational facilities.** Indoor recreational facilities, such as pool halls, bowling alleys, arcades, laser tag facilities, and casinos may operate, provided no eating, drinking, or smoking is permitted on site to assure 100% compliance with masking requirements.

E. **Theaters and Performance Venues.** Indoor theaters, including movie theaters and live performance venues, may operate subject to the following additional restrictions. Facilities are limited to the lesser of two-hundred and fifty (250) individuals, attendees and staff combined; or the number of individuals permitted under the density restrictions laid out in this Section 5. In addition to the basic social distancing requirements, live performance venues must also comply with guidance such as mandating specific spacing requirements for certain performers. Indoor theaters may not allow eating, drinking, or smoking on-site in order to achieve 100% mask compliance.

F. **Other cultural institutions.** Museums, libraries, and the Philadelphia zoo may operate, subject to all applicable safety requirements and guidelines, provided that internal theater and similar spaces may only be utilized subject to the additional limitations for theaters provided above.

G. **Houses of worship and funeral homes.** Houses of worship and funeral homes may operate but may not allow eating, drinking, or smoking on-site in order to achieve 100% mask compliance. In addition to the basic social distancing requirements, if the facility includes singing or other live musical activity, such venues must also comply with guidance mandating specific spacing requirements for certain musical performers. Houses of worship and funeral homes are limited to the lesser of two-hundred and fifty (250) individuals, attendees and staff combined; or the number of individuals permitted under the density restrictions laid out in this Section 5.

H. **Private Clubs and Conventions.** Operation of private clubs, conventions, and all other similar facilities remains prohibited.

Section 6. Outdoor Sporting and Exercise Activities.

Outdoor sports are permitted, subject to all applicable health and safety requirements, including the face covering and social distancing requirements in Section 9, and all applicable guidance. Spectators are not permitted at sporting activities, except to the extent parents or legal guardians may supervisor minor children engaging in outdoor sports.

Collegiate and professional sports may operate solely pursuant to health and safety plans specifically approved by the Department of Public Health, which shall include spectators at games or events only as specifically authorized in such plans.

Section 7. Restaurants and Catering

A. Outdoor Dining at Restaurants. Outdoor dining service may continue with the following restrictions:

1. Outdoor dining is limited to no more than four people per table.
2. No outdoor dining service for unseated customers is permitted.
3. Customer seating for outdoor dining must remain entirely outside of the indoor portion of the premises. Dining at portions of the indoor space open in some respects to the outside, such as by open windows, is not outdoor dining.
4. All permitting, licensing and other requirements and limitations of City and Commonwealth law applicable to restaurants and food establishments, including with respect to outdoor dining and authorized locations for such activities, remain in place and are not superseded or impacted by this Order.

B. Indoor Dining at Restaurants. Indoor on-site dining activities at restaurants, cafes, and retail food service businesses may operate subject to the following:

1. Servers must wear both face shields and masks indoors.
2. Indoor dining parties are limited to 4 or fewer people at a table.
3. All persons at a given table must be from the same household.
4. Use of a restaurant for a private event, such as for a party, is prohibited.
5. Former smoking or vaping areas must remain closed.

6. Service at bars within restaurants remains prohibited.
7. Alcohol can be served for on-premises consumption only when in the same transaction as a meal.
8. Businesses must adjust work assignments to ensure employees can stay six (6) feet from each other throughout their shifts.
9. Occupancy limits and spacing requirements:
 - a. Indoor occupancy must be limited to 25% of the stated fire code occupancy for seated dining;
 - b. Tables must be arranged as follows: Customers sitting at a table must not be within six feet of any customer sitting at another table or customers passing by, in all directions.
10. All permitting, licensing and other requirements and limitations of City and Commonwealth law applicable to restaurants and food establishments, including with respect to authorized locations for such activities remain in place and are not superseded or impacted by this Order.

C. **Catering.** Outdoor catered gatherings are permitted with a maximum of twenty-five (25) people total and no more than four (4) people per table, provided such gatherings are conducted in strict compliance with all orders, regulations, and guidance of the City and Commonwealth, including masking, social distancing, and density requirements. Catering service is prohibited at any indoor gathering in connection with any activity comprising more than one household.

Section 8. Construction. Construction activities continue to be governed by the April 29, 2020, “Authorization for Conduct of Certain Construction Activity Currently Prohibited by the March 22, 2020 Emergency Order,” as it has been and may subsequently be amended by, *inter alia*, the May 26, 2020 “Relaxation of Certain Restrictions on Construction, Real Estate Businesses, Walk-Up Food Service Ordering and Mobile Food Venders Currently Prohibited by the March 22, 2020 Emergency Order,” and the July 24, 2020 “Emergency Regulation Modifying Restrictions Regarding the Number of Workers Permitted on Site During Authorized Construction Work under Certain Conditions, and any City regulations adopted in connection with such Orders. .”

Section 9. Generally Applicable Requirements for Social Distancing and Face Coverings.

A. Social Distancing. Specific social distancing requirements are provided in guidance applicable to the specific businesses or activity at issue. If no specific guidance applies participants must maintain at least six (6) feet of space between individuals; sanitize frequently touched surfaces often; frequently wash hands with soap and running water for at least twenty (20) seconds or using hand sanitizer, refraining from shaking hands; and cover coughs or sneezes with a sleeve or elbow (not hands).

B. Face Coverings Required.

1. Except as provided in paragraph 2, “Exceptions,” all individuals must wear face coverings, such as cloth face masks, scarves, bandannas or other material, as recommended by the Centers for Disease Control (CDC). 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:

- a. at any indoor location where members of the public are generally permitted;
- b. in the same room with or otherwise in the company of a person who lives in a different household, whether indoors or outdoors; or
- c. likely, in the near future, to encounter a person from another household, whether indoors or outdoors.

2. Exceptions.

- a. This Section 9(B) is not applicable to the following individuals:
 - 1. Any child younger than 2 years of age.
 - 2. Any individual who has a physical disability that prevents easily wearing or removing a face covering.
 - 3. Any individual who is deaf and uses facial and mouth movements as part of communication.
 - 4. Any individual who has been advised by a medical provisional

that wearing a face covering may pose a risk to that individual for health-related reasons.

5. Any individual who has trouble breathing or is unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.

b. Other exceptions.

1. Face coverings are not required to be worn when eating or drinking, however individuals are reminded to maintain appropriate social distance of at least six feet from all individuals from other households.

2. 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 physical barriers with sides that extend above the heads of any individuals present, such as cubicles.

Section 10. Additional Responsibility for Masking, Density, and Signage Requirements.

A. The owner, operator or host of any business, facility, workplace or gathering or event location 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, facility, workplace or gathering or event location with the following, subject to fines and all other remedies under this Order:

1. All applicable masking requirements under this Order, or any other applicable guidance documents; and

2. All applicable size and density limitations, as well as social distancing requirements, as established under this Order or any other applicable order or guidance document; and

3. This liability shall be in addition to the personal responsibility and liability of individual employees, customers, members, visitors and other occupants of the business, facility, workplace or event location under this and all other emergency health orders or Board of Health regulations concerning the control and prevention of COVID-19

B. The owner, operator or host of any business, facility, workplace or gathering or event location shall specifically required to ensure that number of persons present in a given space remains below the applicable permissible density and maximum person requirements at all times by controlling entry into the relevant space, counting the number of persons entering, and refusing entry when the limit is met. For businesses, facilities, workplaces, gatherings or events

that take place in multiple locations, spaces, or rooms, the number of persons permitted in each such location, space, or room must be monitored.

C. The owner, operator or host of any business, facility, workplace or gathering or event location is required to prominently display signage advising of health and safety requirements in accordance with applicable guidance of the Department of Public Health.

Section 11. Interpretation and Implementation.

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

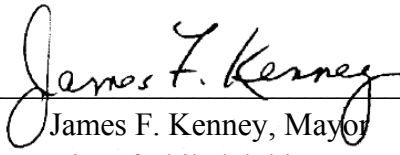
B. Consistent with prior emergency health orders of the City, this Order does not apply to government operations of the City of Philadelphia. Individuals interacting with government officers and employees must comply with the requirements of this Order and other City orders and guidance.

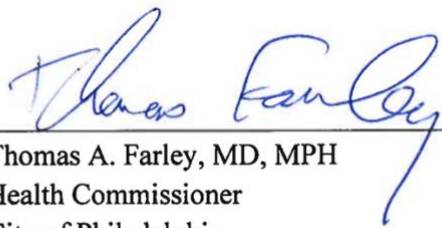
C. The owners, operators and individuals in possession of any facility subject to this Order must allow inspection of ongoing operations as a condition of operation.

D. 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, 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 (providing for fines of up to \$2,000 per violation for businesses and \$500 per violation for individuals).

E. This Order shall be effective on **January 16, 2021**, and shall expire on **February 28, 2021 at 11:59 p.m.**, unless otherwise rescinded, superseded, or amended by further Order.

Date: January 15, 2021


James F. Kenney, Mayor
City of Philadelphia


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