

City of Philadelphia  
Office of the Managing Director

## MEMORANDUM

To: James Leonard, Commissioner  
Department of Records

Cc: Richard Lazer, Deputy Mayor for Labor  
Jo Rosenberger Altman, Senior Attorney Law Department

From: Brian Abernathy, Managing Director



Date: March 16, 2020

Re: SUPPLEMENTAL EMERGENCY REGULATION REGARDING COVID-19 AND CHAPTER 9-4100 OF THE PHILADELPHIA CODE: PROMOTING HEALTHY FAMILIES AND WORKPLACES

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Consistent with Mayor Kenney's March 11, 2020 Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus, I am hereby filing the attached "SUPPLEMENTAL EMERGENCY REGULATION REGARDING COVID-19 AND CHAPTER 9-4100 OF THE PHILADELPHIA CODE: PROMOTING HEALTHY FAMILIES AND WORKPLACES" effective immediately as a temporary regulation.

Please note that we are requesting the Records Department follow the normal process for promulgating regulations pursuant to Section 8-407 of the Philadelphia Home Rule Charter simultaneously with the regulation going into effect immediately, as further explained in the attached Law Department approval memorandum and regulation.

Attachments:

Law Department approval memorandum  
Regulation



City of Philadelphia

LAW DEPARTMENT  
One Parkway  
1515 Arch Street  
17<sup>th</sup> Floor  
Philadelphia, PA 19102

## Memorandum

**TO:** Brian Abernathy, Managing Director

**FROM:** Jo Rosenberger Altman, Senior Attorney

**DATE:** March 16, 2020

**SUBJECT:** Supplemental Emergency Regulation Regarding COVID-19 and Chapter 9-4100 of The Philadelphia Code: Promoting Healthy Families and Workplaces

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I have reviewed the Supplemental Emergency Regulation Regarding COVID-19 and Chapter 9-4100 of The Philadelphia Code: Promoting Healthy Families and Workplaces, attached hereto as Attachment A. I find the regulation to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may now forward these regulations to the Department of Records where they will be made available for public inspection.

Consistent with Mayor Kenney's March 11, 2020 Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus, attached hereto as Attachment B, you may promulgate the amendment effective immediately upon delivery to the Department of Records as a temporary regulation, while the remaining procedures and formalities of Section 8-407 are followed to promulgate the amendment.

  
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Jo Rosenberger Altman  
Senior Attorney

Attachments

## ATTACHMENT A

**Office of the Managing Director**

**Mayor's Office of Labor**

**SUPPLEMENTAL EMERGENCY REGULATION  
REGARDING COVID-19 AND CHAPTER 9-4100 OF THE PHILADELPHIA CODE:  
PROMOTING HEALTHY FAMILIES AND WORKPLACES**

The following supplemental emergency regulations are hereby adopted specifically to address the potential spread of the novel coronavirus disease of 2019 ("COVID-19") the Philadelphia area. Consistent with the Mayor's Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning A Novel Coronavirus signed March 11, 2020, the instant regulation shall be effective immediately as a temporary regulation while the procedures of Section 8-407 are complied with simultaneously.

**1.0 Purpose and Scope.**

This Supplemental Emergency Regulation is promulgated by the Managing Director's Office pursuant to its authority under Section 8-407 of the Home Rule Charter and Section 9-4109 of The Philadelphia Code, to set forth additional definitions and supplement the "Regulations Regarding Chapter 9-4100 of the Philadelphia Code – Promoting Healthy Families and Workplaces," ("Existing Regulations") in light of the current local disaster emergency. Pursuant to the Mayor's "Declaration of Extraordinary Circumstance: Suspending the Formal Regulatory Process for Regulations Concerning a Novel Coronavirus" dated March 11, 2020, this Supplemental Emergency Regulation will be in effect immediately and continue for the duration of the local disaster emergency declared by the Mayor of Philadelphia in response to COVID-19.

**2.0 Definitions.** In addition to any existing meanings of the terms referenced below, the definitions provided in § 9-4103, and the definitions provided in the Existing Regulations, the terms referenced below include the following for the purpose of Chapter 9-4100:

**2.1 Preventive Medical Care.** The term includes, but is not limited to, the following:

- a. The evaluation of a person under investigation for COVID-19.
- b. The act of engaging in a self-quarantine for two-weeks:
  - (i) due to symptoms of COVID-19, such as fever, dry cough, or shortness of breath.
  - (ii) after the return of an individual to the United States after travel to a Tier 2 or Tier 3 country as defined by the United States Center for Disease Control ("CDC") with respect to COVID-19.

- (iii) as the result of having come into contact with an individual who has been diagnosed with COVID-19.
- c. With respect to a family member of an employee, such family member remaining home as the result of the closure of a school, daycare, adult care facility, or other care facility where care would otherwise be provided for such family member.
- d. With respect to an employee, such employee remaining home as the result of a requirement by the Governor, the Secretary of Health of the Commonwealth of Pennsylvania, the Mayor, or the Health Commissioner that businesses, or a particular type of business, must remain closed.
- e. With respect to either an employee or a family member of an employee, self-quarantine due to a requirement by the Governor, the Secretary of Health of the Commonwealth of Pennsylvania, the Mayor, the Health Commissioner of the Department of Public Health of the City that residents of certain areas of the Commonwealth must not travel, and such travel would be necessary to report to work.
- f. With respect to an employee or a family member of an employee who has a greater risk of harm than the general population if such employee or family member contracts COVID-19, such as those with compromised immune systems, self-quarantine as the result of the recommendations of a health care professional, the CDC, the Governor, the Secretary of Health of the Commonwealth of Pennsylvania, the Mayor, or the Health Commissioner of the Department of Public Health.

**2.3 Reasonable Documentation.** The term includes, but is not limited to, the following:

- a. With respect to the types of preventative medical care identified in Section 2.2(b)(ii),(iii), and 2.2 (c)-(e), reasonable documentation includes, but is not limited to, a public statement from a government official, the City Department of Public Health, or the CDC, provided that an employer may require a signed statement from an employee affirming that the conditions described in such public statement apply to the employee or the family member of the employee. Consistent with CDC guidance, employers may not require a note from a health care professional.
- b. With respect to an employee who is out of the office as a result of the physical illness or health condition involving a fever, dry cough, or shortness of breath or other respiratory illness of such employee or such employee's family member, or the type of preventative medical care identified in Section 2.2(b)(i), a signed statement from the employee affirming that the relevant conditions apply. Consistent with CDC guidance, employers may not require a note from a health care professional.

- c. With respect to the types of preventative medical care identified in Section 2.2(f), reasonable documentation includes, but is not limited to, a public statement from a government official, the City Department of Public Health, or the CDC. Employers may not require a note from a health care professional if a public statement from one of such authorities identifies the employee or family member's circumstances as high risk, provided that an employer may require a signed statement from an employee affirming that the conditions described in such public statement apply to the employee or the family member of the employee.

**2.4 Paid sick time:** As provided in subparagraph 13(b) of the Existing Regulations, tipped employees and commission paid employees shall be compensated for sick time at a rate not less than the minimum hourly rate for hours worked, as required under the Pennsylvania Minimum Wage Act of 1968, 43 P.S. 333.104(a), or by 17-1305 of The Philadelphia Code, where applicable, which is currently \$7.25 per hour.

## ATTACHMENT B

**DECLARATION OF EXTRAORDINARY CIRCUMSTANCE:  
SUSPENDING THE FORMAL REGULATORY PROCESS FOR  
REGULATIONS CONCERNING A NOVEL CORONAVIRUS**

Due to the imminent and emerging threat of a novel coronavirus (now known as "COVID-19"), which began affecting humans in December 2019, and has since spread to numerous countries, including to the United States and specifically to the Commonwealth of Pennsylvania, I hereby **DECLARE**:

**THAT** The spread of COVID-19 constitutes an emergency that affects the public health of the people of Philadelphia and by the power vested in me as the Mayor of the City of Philadelphia, I hereby suspend the requirements of Section 8-407 of the Philadelphia Home Rule Charter to allow for the temporary promulgation of regulations pertaining to the threat of the spread of COVID-19. Such temporary regulations shall be submitted to the Law Department for approval, and upon such approval shall go into effect upon the delivery by the promulgating board or department head to the Department of Records for public notice of such filing, as are otherwise prerequisites for the promulgation of regulations pursuant to Section 8-407. Any temporary regulations promulgated under this authority shall remain in effect while the promulgating board or department forthwith complies with the procedures required by Section 8-407.

Date: 3/11/20

By: James F. Kenney  
James F. Kenney, Mayor  
City of Philadelphia