



CITY OF PHILADELPHIA
OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

AMENDMENT REGARDING OUTDOOR DINING 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)**

YELLOW PHASE OF REOPENING

WHEREAS, the 2019 novel coronavirus disease, COVID-19, can cause severe disease and death, particularly in older adult and other vulnerable populations; and

WHEREAS, on March 6, 2020, in response to the emerging spread of COVID-19, the Governor of Pennsylvania issued a Proclamation of Disaster Emergency; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, or global epidemic; and

WHEREAS, on March 12, 2020, the City's Board of Health by emergency regulation added COVID-19 to the City's list of reportable and quarantinable diseases; and

WHEREAS, on March 17, 2020, the Mayor and the Health Commissioner jointly issued an Emergency Order prohibiting operation of non-essential businesses to prevent the spread of COVID-19; and

WHEREAS, on March 19, 2020, the Governor and the Secretary of the Pennsylvania Department of Health issued orders requiring all non-life-sustaining businesses to close across the Commonwealth, to help stop the spread of the virus and the Governor and Secretary updated the aforementioned orders and list of life-sustaining and non-life sustaining businesses on March 20, 2020 and multiple times thereafter; and

WHEREAS, on March 22, 2020, the Mayor and the Health Commissioner jointly issued an Emergency Order Temporarily Prohibiting Operation of Non-Essential Businesses and

Congregation of Persons to Prevent the Spread of COVID-19, which superseded the Emergency Order issued by the Mayor and Health Commissioner dated March 17, 2020, and which was approved as a regulation of the City by the Board of Health on March 26, 2020, which expressly authorized the Health Commissioner to issue such additional orders as the Commissioner determines are necessary or appropriate to limit the spread of COVID-19; and

WHEREAS, on April 15, 2020, the Secretary of Health of the Commonwealth of Pennsylvania issued an Order “Directing Public Health Safety Measures for Businesses Permitted to Maintain In-person Operations,” which requires comprehensive safety measures to be employed in all businesses maintaining physical operations, including standards for cleaning and disinfecting high-touch areas, establishing protocols for businesses exposed to probable or confirmed cases of COVID-19, limiting the numbers of employees on the premises and ensuring access to protective and sanitary equipment and supplies; and

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

WHEREAS, Philadelphians are working hard to turn back COVID-19, and they are succeeding; because of social-distancing actions and the stay-at-home order, daily COVID-19 case counts have fallen significantly from counts in mid-May and mid-April and continue to decline; 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 hat They are Safer at Home, and Establishing Safety Measures to Prevent the Spread of 2019 Novel Coronavirus (COVID-19): Yellow Phase of Reopening” (“Yellow Phase Order”) to implement that decision, effective on the date determined by the Governor that the City of Philadelphia should move into the Yellow Phase, expected to be June 5, 2020; and

WHEREAS, on or around May 28, 2020, the City’s Department of Public Health released *Safe Mode: Guidelines for Safer Operations During the COVID-19 Pandemic*, which

provides specific reopening guidance for types of facilities that may be able to open or expand operations when we reach the Yellow Phase; and

WHEREAS, on June 4, 2020, the Governor and Secretary of Health’s amended their respective orders Order for Limited Opening of Businesses, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts, to apply to Philadelphia effective June 5th, which generally moved the City into the Yellow Phase pursuant to the Governor’s guidelines; and

WHEREAS, on or around June 12, 2020, the City’s Department of Public Health released an addition to the *Safe Mode* Guidelines that updated guidance for restaurants and mobile food vendors, and specifically with respect to outdoor dining activities; and

WHEREAS, the Mayor and Health Commissioner have determined that, under applicable safety requirements and guidelines, operation of outdoor dining activities is within the range of acceptable activities in the Yellow Phase; and

WHEREAS, pursuant to authority set forth in The Philadelphia Code and inherent authority set forth in The Philadelphia Home Rule Charter, the Mayor has broad authority to set forth limitations on public activities during a state of national health emergency; and

WHEREAS, Sections 6-205 and 6-206 of The Philadelphia Code provide that the Department may by order forbid the congregation of persons when necessary to prevent the further spread of a communicable and quarantinable disease and may take such other measures as are necessary to prevent the spread of such disease;

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. Operation of Outdoor Dining.

Outdoor on-site dining activities at restaurants and cafes may operate in the Yellow Phase, beginning on June 12, 2020, subject to the following:

- a. All operations must adhere to all restrictions and guidance applicable to restaurants and mobile vendors generally, and to outdoor dining specifically, including the Commonwealth’s *Guidance for Businesses Permitted to Operate During the COVID-19 Disaster Emergency to Ensure the Safety and Health of Employees and the Public*, as subsequently amended, and all orders and guidance cited therein; all applicable City orders and guidance, including the City of Philadelphia’s *Safe Mode: Guidelines for Safer*

Operations During the COVID-19 Pandemic, as amended; and the specific health and safety requirements specifically identified in the Yellow Phase Order.

b. 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 permitted.

c. If emergency safety orders or safety guidance documents from multiple government agencies differ or conflict, the Philadelphia Department of Public Health recommends that businesses follow the most restrictive applicable order or guidance.

d. 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.

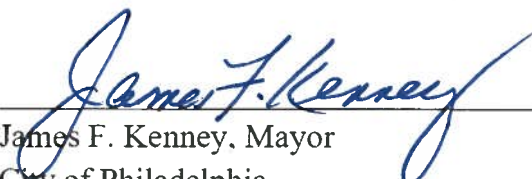
2. Interpretation and Implementation.

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

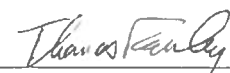
b. Failure to comply with this Order shall result in orders to cease operations and the imposition of penalties, fines, license suspensions, and other remedies as provided for by law.

c. This Order shall remain in effect until rescinded, superseded, or amended by further Order.

Date: June 16, 2020



James F. Kenney, Mayor
City of Philadelphia



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