



CITY OF PHILADELPHIA

OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

**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**

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Prohibiting Operation of Non-Essential Businesses and Congregation of Persons to Prevent the Spread of COVID-19, which superseded the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, 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” (“Yellow Phase Order”) to implement that decision; 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 has been periodically updated and which provides specific reopening guidance for specific types of facilities; 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 have hastily reopened, the City has taken a cautious approach to moving to the Green Phase; and

WHEREAS on July 3, 2020, the Mayor and Health Commissioner issued an 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, at this time the country is experiencing a sharp increase in COVID-19 case counts, repeatedly breaking daily records in recent days, and is currently averaging more than 1,000 daily COVID-19 deaths (using a 7-day average); and

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

WHEREAS, the Department of Public Health has identified a recent, significant uptick in percent positivity among those tested for COVID-19; and

WHEREAS, these alarming national and local trends require tailored but significant intervention to limit the community spread of COVID-19 and its attendant morbidity and mortality; 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, 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, 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, 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 and applicable state law 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. Scope and Consistency with Prior Emergency Orders.

This Order modifies, but not does not replace, some of the City’s previous emergency COVID-19 related health orders, as applicable. Any such previous order in effect that addresses and restricts any matter or activity not addressed in this Order, or that authorizes any activity not addressed in this Order, remains in effect. To the extent any aspect of this Order is more restrictive than any such previous order or requirement, or in the event of a conflict between any such orders and this Order, this Order controls. All applicable health and safety guidance incorporated in prior orders remains in effect for all activities allowed under this Order. To the extent any such guidance conflicts or is less restrictive than this Order, this Order controls.

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. Indoor and Outdoor Social Gatherings of Persons from Different Households

- A. Except as otherwise provided in this Order, indoor gatherings of 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. Except as otherwise provided in this Order, outdoor social gatherings of persons including 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. No food or drink service may be provided (*e.g.*, by a caterer) in any such gathering, and food or drink may only be consumed in a gathering of ten or fewer people in which all individuals maintain at least 6 feet of physical distance from all individuals who reside in a different household (including, for example, not sharing a table with members of a different household), according to applicable guidance, and all individuals gathering must remove their masks only while actively consuming food or drink. This rule applies to private gathering and not to restaurant dining, to which specific restaurant dining rules apply.

4. Outdoor social gatherings are subject to all applicable guidance and requirements of the Commonwealth and the City, including masking and social distancing requirements.

Section 4. Educational Settings.

- A. Secondary education (high schools); colleges and universities; and all other types of vocational, trade or other classroom-based educational programs are prohibited from conducting in-person classes or other instruction, except for the following, in each case subject to strict compliance with applicable Commonwealth and City guidance:
 1. Childcare and early education programs;
 2. Elementary and middle school education (K-8th grades);
 3. Virtual learning centers for supervised on-line learning (Access Centers); and
 4. Certain health care and allied professional clinical instruction as further provided in guidance of the Department of Public Health.

Section 5. Restaurants and Catered Events.

- A. Indoor on-site dining at restaurants or other food service businesses is prohibited.
- B. Outdoor dining service may continue, but is limited to no more than four people per table. No outdoor dining service for unseated customers is permitted.
- C. Catering service is prohibited at any gathering, or indoor or outdoor events or in connection with any activity comprising more than one household.
- D. Takeout and delivery service continue to be permitted.

Section 6. Retail Stores, Personal Care Services and Office-Based Settings.

- A. All non-restaurant retail and personal care service establishments, as well as indoor shopping malls, must maintain density limits of no more than 5 people per 1,000 square feet of occupiable space, as further defined in, and except as otherwise specifically provided with respect to a particular activity in, guidance of the Department of Public Health, and such activities must remain in strict compliance with all applicable Commonwealth and City guidance, including masking and social distancing requirements.
- B. All work in office-based settings that does not involve the direct provision of services (such as medical services) must generally continue to be conducted remotely, and only those on-site business operations that are not conducive to operating remotely may be conducted on-site, all as required pursuant to the May 29, 2020 Yellow Phase Order. Density limits of no more than 5 people per 1,000 square feet of occupiable space must be maintained in connection with all such work, as well as strict compliance with all applicable Commonwealth and City guidance, including masking and social distancing requirements.

Section 7. Religious, Cultural, Recreational, Sports and Entertainment Activities.

- A. The following indoor facilities are prohibited from operating: theaters, concert venues, museums, movie theaters, arcades, casinos, bowling alleys, private clubs, event centers and locations rented for wedding and other celebratory events and all other similar entertainment, recreational or social facilities.
- B. The Zoological Society may operate outdoor areas only.
- C. Libraries may not operate, other than to provide curbside book pickup and dropoff.
- D. Occupancy of houses of worship and funeral homes is limited to 5% of the posted maximum occupancy limit, or if there is no posted limit, 5 people per 1,000 square feet of occupiable space.
- E. All outdoor religious, cultural, recreational, entertainment or sporting events are limited in operation to the following:

1. For a facility with a defined seating capacity, no more than 10% of capacity may be utilized.
2. For a facility without seats, or where maximum capacity is otherwise undefined, no more than 10 people per 1,000 square feet of occupiable space.
3. For any facility or location, no more than 2,000 people total are permitted.

Section 8. Physical Recreation and Activities.

- A. Gyms and all other indoor facilities for physical exercise and training are prohibited from operating. Trainers may operate classes in outdoor physical activities in accordance with outdoor gathering limitations of Section 2 and in compliance with all applicable guidance, including masking and social distancing requirements.
- B. Formally organized games, competitions and practices in outdoor sports or sporting activities are not permitted for any age group, except as further provided. Formally organized means organized by a school, league or other entity or person that arranges for competition among teams, including organized teams themselves, involving any degree of advanced planning.
- C. 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 9. 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, established under the June 26, 2020 Emergency Order Concerning the Use of Face Coverings to Prevent the Spread of 2019 Novel Coronavirus (COVID-19) (the “June 26, 2020 Mask Order”), this Order, or any other applicable guidance documents; and
 2. All applicable density limitations and 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 under this and all other Emergency Health Orders of individual employees, customers, members, visitors and other occupants of the business, facility, workplace or event location.
- B. 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 10. Additional Mask Requirements.

- A. The following additions and amendments are made to the June 26, 2020 Mask Order:
1. All individuals are required to wear a face mask or other face covering properly, which means in a manner that fully covers the mouth and nose, consistent with applicable guidance, at all times when they are in the same room with or are otherwise in the company of a person who lives in a different household, and at all times when they are likely, in the near future, to encounter a person from another household, whether indoors or outdoors. This requirement applies in addition to any other requirements for wearing masks identified in the June 26, 2020 Mask Order.
 2. The Department of Public Health strongly encourages the use of higher-quality masks (*e.g.*, cloth multi-layer rather than single-layer) that fit snugly around the nose and chin without gaps around the sides of the face.

3. Section 1(B)(a)(1) of the June 26, 2020 Mask Order, which provides for an exception to the masking requirement, is hereby amended, to reduce the age at which children are exempted from the masking requirement from 8 years or younger to younger than 2 years.

Section 11. Interpretation and Implementation.

- A. Except to the extent of a direct conflict, this Order generally 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 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. 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 at **5 p.m.** on **November 20, 2020**, and shall expire at the end of **January 1, 2021**, unless otherwise rescinded, superseded, or amended by further Order.

Date: November 16, 2020

James F. Kenney, Mayor
City of Philadelphia

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