



CITY OF PHILADELPHIA

OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

SECOND SUPPLEMENTAL ORDER
REAFFIRMING CITY POLICY REGARDING OUTDOOR GATHERINGS AND
EVENTS IN LIGHT OF EMERGENCY RESTRICTIONS

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 which has been renewed and is still in effect; 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 of Pennsylvania 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 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 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

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, *inter alia*, use of pools, personal grooming services, retail businesses, outdoor sports and other activities, and outdoor gatherings; 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, including marked increases of positively identified COVID cases, have taken a cautious approach to moving to the Green Phase; 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 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, on September 22, 2020, the Mayor and Health Commissioner issued a Supplemental Order Regarding Application of the Modified Green Phase Emergency Order focused on the City's policy regarding gatherings of persons ("Supplemental Gatherings Order"), which expired on October 22, 2020; and

WHEREAS, following the expiration of the Supplemental Gatherings Order the City has continued to adhere to the policies set forth in the Supplemental Gatherings Order, adjusted as appropriate given the changes to health restrictions applicable to outdoor gatherings, 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 2020, 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, 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 and distancing; and

WHEREAS, on November 16, 2020, the Mayor and Health Commissioner, in order to address the mounting problems of increased COVID-19 spread, issued an additional broad-sweeping Emergency Order containing significant additional restrictions to many individual and group activities, including with respect to outdoor social gatherings, effective November 20, 2020 (the “November 16, 2020 Order”); and

WHEREAS, as the City has made significant reductions to its budget as a result of the COVID-19 pandemic and resulting economic downturn, based on the projection of an approximately \$749 million deficit without such cuts; and

WHEREAS, the Managing Director’s Office of Special Events has seen a 50% reduction in funding; and

WHEREAS, as a result of a reduced budget and the ongoing pandemic, there is an increased burden for hosting public events and the City must focus its resources on maintaining the health and safety of the City; and

WHEREAS, the City welcomes all forms of First Amendment expression, whether a protest, parade, festival, or any peaceful expressive activity, but must also safeguard public health and safety during these unprecedented and turbulent times; and

WHEREAS, the City further recognizes that at times gatherings organized to engage in protected speech are, by their nature, unpredictable such that a planned event for large groups can balloon without advance warning; and

WHEREAS, spontaneous gatherings have become frequent and the City wishes to avoid unnecessary confrontations because such confrontations can easily escalate an otherwise peaceful gathering into unrest or violence; increase the duration of the gathering; or increase the size of the gathering; and thus increase the probability of potential spread of COVID-19; and

WHEREAS, the Mayor and Health Commissioner have determined that it is again necessary to summarize the rules and guidance with respect to outdoor gatherings and the current posture of the permitting process for special events and demonstrations; and

WHEREAS, the nature of the pandemic within Philadelphia and the impact of the fall and winter will have on the spread of the virus is still unknown, necessitating changes to the City's emergency orders, and the periodic review of this clarifying order; and

WHEREAS, pursuant to authority set forth in The Philadelphia Code and The Philadelphia Home Rule Charter, the Mayor has broad authority over enforcement of City laws and regulations, and 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; and

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. Outdoor Gatherings and Events

Outdoor gatherings continue to be allowed for any lawful purpose, provided that they are conducted pursuant to all applicable orders and guidance and requirements of the Commonwealth and the City, including the density limit of no more than 10 people per 1,000 square feet of occupiable space; a cap of no more than 2,000 per an event or activity; and no eating or drinking in groups of more than 10 individuals (who must remain at least six feet apart if from different households); all as set forth in the November 16, 2020 Order; and all masking and social distancing requirements, including, but not limited to the City's Emergency Order Concerning the Use of Face Coverings to Prevent the Spread of 2019 Novel Coronavirus (COVID-19), as modified by the November 16, 2020 Order, The City of Philadelphia's *Reopening Guidance – Outdoor Performances and Events*, and The City of Philadelphia's *Reopening Guidance – Celebrations, Catering Halls and Special Events*. This Order does not reduce or otherwise impact the restrictions of the November 16, 2020 Order.

Section 2. Special Event Permitting

Given the City's limited resources, the burden for supporting public events, and the current public health risks posed by events during a pandemic, the City is not currently accepting permit applications for demonstrations or special events, but is continuing to reevaluate its capacity to accept and process applications for special event or demonstration permits and considering resumption of doing so. The City will publicly announce any decision to resume permit acceptance and issuance. During the period when applications for special event or demonstration permits are not being evaluated, the City will not be enforcing such permitting requirements.

During this period, peaceful gatherings that would otherwise require a special event or demonstration permit, including but not limited to demonstrations, parades, or festivals, may continue to lawfully occur without such special event or demonstration permits. The Police Department shall provide public safety support to such gatherings in order to assure the safety of individuals participating in such gatherings as provided in Section 3 of this Order.

All other permitting, licensing and legal requirements must be followed, to the extent applicable, including those related to but not limited to special parking facilities, hanging signs or banners, setting up tents, fireworks, food vending, and serving alcoholic beverages.

Section 3. Public Safety Support

Organizers of gatherings may continue to request support for the safety of those gatherings by contacting the Civil Affairs Unit of the Police Department. The City will provide public safety support for the planning or execution of gatherings if the City determines that City services are appropriate to assure public health or safety, which may include decisions to close streets.

Section 4. Nonconfrontation-De-escalation Policy

It is the City's policy to avoid unnecessary confrontations in the enforcement of its emergency orders (e.g., against gatherings of prohibited sizes), because confrontations can unnecessarily escalate; extend the duration of; and increase the size of an otherwise peaceful gathering that may end voluntarily. In the interest of City residents and employees, the City considers the peaceful nature of the gathering, its compliance with other laws and regulations, and the response or de-escalation efforts that best serve public health, safety, and welfare, in evaluating appropriate enforcement measures.

Section 5. Duration and Review

This Order memorializes the City's existing practice, shall be effective when signed, and shall remain in effect until the end of **January 1, 2021**, unless suspended, superseded, by subsequent order. This Order may or may not be renewed upon its expiration based on an evidence-based recommendation by the Department of Public Health. Based on current evidence regarding the status of the pandemic in Philadelphia and its unpredictability, the City strongly advises event organizers against planning events to occur before February 28, 2021.

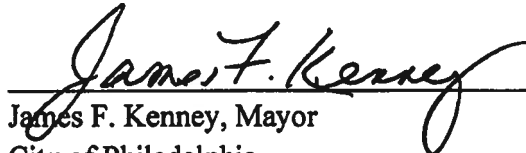
Section 6. Interpretation and Implementation

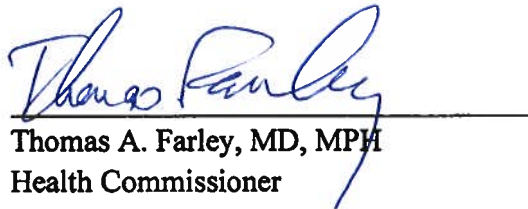
a. The City's July 14, 2020 policy statement regarding special events and public gatherings is rescinded to the extent inconsistent with this Order.

b. 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 reviewing inquiries and submissions regarding the applicability of the City's orders to businesses and activities.

c. 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.

Date: November 23, 2020


James F. Kenney, Mayor
City of Philadelphia


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