



CITY OF PHILADELPHIA
OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

**AMENDED 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Prohibiting Operation of Non-Essential Businesses and Congregation of Persons to Prevent the Spread of COVID-19, which superseded the Emergency Order issued by the Mayor and Health Commissioner dated March 17, 2020, and which was approved as a regulation of the City by the Board of Health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 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 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 has since seen 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 has since begun seeing a decline in cases; and

WHEREAS, the City anticipates that, despite restrictions, the Christmas and New Year holidays will result in additional gatherings that will result in a similar increase in COVID-19 cases as was seen around Thanksgiving, necessitating the continuation of necessary yet tailored mitigation methods for higher risk activities; 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 virus during this critical time in the pandemic; 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, 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. Extension of Fall/Winter Order.

Except as specifically provided below in Sections 2, 3, 4 and 5, the November 16, 2020 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”) is hereby in effect through 11:59 p.m. on January 15, 2021.

Section 2. Educational Settings.

A. In-person secondary education (high schools) may resume operations beginning on January 4, 2021, provided all operations, must be 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.

Section 3. Outdoor Events with Food or Drink.

A. Outdoor events with food and/or drink consumption may resume on January 4, 2021, 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, including masking, social distancing, and density requirements.

Section 4. Additional Restrictions on Office-Based Settings and Remote Work.

Subsection B of Section 6 of the Fall/Winter Order is replaced with the following:

B. 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.

C. Where telework is authorized or impossible, 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. Indoor operations are subject to density limits of no more than 5 people per 1,000 square feet of occupiable space.

Section 5. Physical Exercise, Cultural, Entertainment and Recreation Facilities and Activities Permitted to Resume January 4, 2021.

A. **Indoor Activities.** The specific indoor activities and businesses identified below may resume on January 4, 2021, provided all operations must:

(1) adhere to density limits of no more than 5 people per 1,000 square feet of occupiable space; and

(2) remain in strict compliance with all orders, regulations, and guidance of the City and Commonwealth, including all orders and guidance applicable to the specific business or activity, including masking and social distancing requirements.

(a) Gyms and Indoor Exercise Facilities. Operation of gyms and indoor recreation facilities are generally permitted, with the following restrictions.

(i) Classes and similar group activities must be limited to no more than 10 participants and all distancing requirements and applicable guidelines must be followed.

(ii) Multi-player competitive activities, such as tennis, are permitted up to a maximum of two people.

(b) Indoor Cultural, Recreation and Entertainment Facilities.

(i) The following indoor facilities may operate, provided no eating, drinking, or smoking is permitted on site to assure 100% compliance with masking requirements: pool halls, bowling alleys, arcades, laser tag facilities and casinos.

(ii) Movie theaters, theaters, music and other performance venues, private clubs and all other similar facilities remain prohibited.

(iii) Museums and libraries may operate, subject to all applicable safety requirements and guidelines, provided that internal theater and similar spaces may not be utilized.

B. Outdoor Sporting Activities. Formally organized and non-organized outdoor sports activities for youth and adults may resume on January 4, 2021, to the extent such activities were permitted under the City's September 15, 2020 Fourth Amendment Regarding Activities Permitted Under the Modified Green Phase Order (Regarding Outdoor Activities), and subject to the limitations therein, provided that such activities are conducted in strict compliance with all applicable orders, regulations, and guidance of the City and Commonwealth, including all orders and guidance applicable to the specific activity, including masking, social distancing, and density requirements, and gathering size limitations.

Operation of collegiate and professional sports shall continue as provided in the Fall/Winter Order.

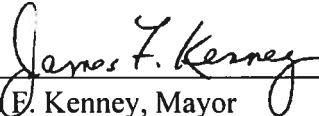
Section 6. Interpretation and Implementation.

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

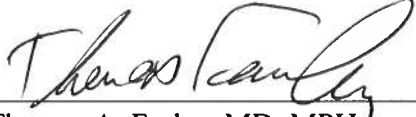
submissions regarding the applicability of the City's orders to businesses and activities.

- 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).

Date: December 30, 2020



James F. Kenney, Mayor
City of Philadelphia



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