CITY OF PHILADELPHIA

OFFICE OF THE MAYOR
DEPARTMENT OF PUBLIC HEALTH

EMERGENCY ORDER TEMPORARILY PROHIBITING OPERATION OF NON-ESSENTIAL BUSINESSES AND CONGREGATION OF PERSONS TO PREVENT THE SPREAD OF 2019 NOVEL CORONAVIRUS (COVID -19)

ORDER NO. 2

WHEREAS, on March 6, 2020, in response to the 2019 novel coronavirus disease, 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 11, 2020, the Mayor of Philadelphia issued a Declaration of Extraordinary Circumstance that allows City regulations related to addressing the pandemic to become effective immediately upon transmission to the Department of Records; and

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

WHEREAS, on March 12, 2020, the Commissioner of Health issued an Emergency Order that forbids gatherings of 1,000 or more persons to prevent the spread of COVID-19; and

WHEREAS, on March 13, 2020, the Mayor issued a Declaration of Emergency related to COVID-19 that, in conjunction with the Governor's proclamation, enhanced the City's ability to take action to address the pandemic's impact in Philadelphia;

WHEREAS, on March 16, 2020, the Governor of Pennsylvania announced that the Commonwealth of Pennsylvania is imposing mitigation efforts to curtail the spread of COVID-19 uniformly across the Commonwealth, calling upon nonessential businesses (excluding business such as grocery stores and medical facilities) to close beginning at midnight Tuesday March 17, 2020; and

WHEREAS, on March 17, 2020 the Mayor and the Commissioner of Health 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 announced that the Commonwealth of Pennsylvania ordered all non-life-sustaining businesses in Pennsylvania to close their physical

locations as of 8:00 p.m., March 19 to slow the spread of COVID-19 and that enforcement actions against businesses that do not close physical locations will begin at 12:01 a.m. Saturday, March 21; and

WHEREAS, the Governor of Pennsylvania updated the aforementioned order and list of life-sustaining and non-life sustaining businesses on March 20, 2020 and again on March 21, 2020; and

WHEREAS, COVID-19 is easily transmitted, especially in group settings, including by people with no symptoms or mild symptoms who may unknowingly spread the disease to others; and

WHEREAS, COVID-19 may remain viable for hours to days on surfaces made from a variety of materials located in businesses and other places, thus contaminating certain property and places; and

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

WHEREAS, pursuant to authority set forth in The Philadelphia Code, inherent authority set forth in The Philadelphia Home Rule Charter, and state law, 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 provides that the Department may forbid congregation of persons and such other measures, including closure of businesses when necessary to prevent the further spread of a communicable and quarantinable disease; and

WHEREAS, scientific evidence shows that preventing unnecessary close contact of individuals is an effective way to mitigate the spread of communicable diseases like COVID-19; and

WHEREAS, the Mayor of the City of Philadelphia and the Health Commissioner have determined that, in order to limit the spread of COVID-19, it is immediately necessary to forbid the operation of businesses that do not provide essential services to the public and activities that endanger public health, in accordance with the terms and conditions set forth herein;

WHEREAS, the best way for Philadelphia residents to keep themselves, their families, and their communities safe during the COVID-19 outbreak is to stay at home as much as possible;

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 Pennsylvania laws and regulations, hereby **ORDER** as follows:

Section 1. Prohibition on Operation of Non-Essential Businesses/Activities in Philadelphia

A. No person or entity shall operate a non-essential place of business. This prohibition does not apply to virtual or remote operations (*e.g.*, work from home).

B. Essential Businesses may operate during the term of this Order and must observe the Social Distancing Rules of 4.

C. Essential Businesses include all Life-Sustaining Businesses in the specific industry groups identified by the Governor of Pennsylvania, specifically those permitted in Natural Resources and Mining; Construction; Manufacturing; Trade, Transportation, & Utilities; Information; Financial Activities; Professional and Business Services; Education and Health Services; Leisure and Hospitality; and Other Services (Except Public Administration) (hereinafter, the "**Governor's Order**").

D. In determining whether a business is a Life-Sustaining Business, the business should first refer to the Governor's Order and the list of Life-Sustaining Businesses. That list has been updated by the Commonwealth to conform with guidance on Essential Critical Infrastructure issued by the Department of Homeland Security, Cybersecurity and Infrastructure Security Agency. The City's Order should be interpreted to be consistent with the Governor's Order.

E. The City of Philadelphia shall provide Philadelphia-specific definitions and examples of Life-Sustaining Businesses, which are defined as Essential Businesses and Activities below, in appropriate coordination with the Commonwealth. The City's Order may impose additional public health and safety restrictions above and beyond the Governor's Order.

F. **Essential Retail Businesses and Activities**, includes the following:

1. "Grocery Stores,"[1] including supermarkets, farmers' markets, convenience stores, and mini-markets; these stores should discourage non-shopping activity (leisure or idling) and manage store occupancy to allow for social distancing
2. "Food Services," or restaurants limited to providing delivery service or pre-ordering online or via phone (<u>strictly prohibited</u> are walk-in ordering, dine-in service, and mobile food vendors, such as food trucks)
3. "Automotive Parts, Accessories, and Tire Stores," including auto-repair shops but not any affiliated car dealerships
4. "Gasoline Stations," including their convenience stores
5. "Building Material and Supplies Dealers," including hardware stores, but not lawn and garden stores
6. "Electronic Shopping and Mail-Order Houses," means establishments primarily engaged in retailing all types of merchandise using non-store means, such as catalogs, toll free telephone numbers, or electronic media
7. "Other General Merchandise Stores," except department stores, includes:
    i. Hardware stores supplying life-sustaining electrical, plumbing, heating, automotive parts, and other life-sustaining materials

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[1] Terms appearing in quotations are identified as a Sector, Subsector, or Industry Group in the Governor's Order.

ii. Pharmacies, drug stores, and retailers of prescription or nonprescription drugs, medicines, and essential healthcare products

8. "Personal Household Goods Repair and Maintenance," includes:

   i. Emergency or urgent household repairs (HVAC, plumbing, electrical, utilities, life-sustaining household appliances, telecommunications equipment) and repair and maintenance necessary to maintaining the safety, sanitation, and essential operation of home residences

   ii. Bicycle or motorcycle repair shops

   iii. Stores primarily engaged in repairing cell phones

9. "Home Healthcare Services," includes in-home or home-based care for seniors, adults, or children (not to be confused with child daycare facilities)

10. "Postal Service" and "Couriers and Messengers," includes post offices, local messengers and local delivery, shipping and freight services, package delivery companies that deliver packages to residential buildings and offices, and companies that otherwise provide intercity, local, and/or international delivery of parcels and documents (including express delivery services)

11. "Dry-cleaning and Laundry Services," includes laundromats

12. Consumer banks and credit unions using drive-through, ATM, and limited lobby services, which are permissible "Financial Activities"

13. Veterinary hospitals and services, and pet stores (which are "Other Miscellaneous Stores")

14. "Rooming and Boarding Houses" includes hotels

15. "Clothing Stores" that only or primarily sell essential uniforms and apparel for medical/healthcare professionals and public safety workers (police officers and firefighters)

16. "Automotive Equipment Rental and Leasing," includes establishments primarily engaged in renting or leasing passenger cars and trucks

17. "Services to Buildings and Dwellings," includes establishments primarily engaged in exterminating and controlling birds, mosquitoes, rodents, termites, and other insects and pests

G. **Essential Infrastructure and Industrial Businesses and Activities**:

1. "Construction" for:

   i. All medical, pharmaceutical, and healthcare facilities (including non-emergency construction)

   ii. All emergency projects or other projects deemed essential by the City of Philadelphia, while appropriately balancing public safety, to ensure the

continued delivery of critical infrastructure services and functions by the City ("City Essential Infrastructure Projects")

iii. Emergency repairs for "Residential Building Construction," "Nonresidential Building Construction," "Utility Subsystem Construction" (related buildings and structures for utilities, *i.e.*, water, sewer, petroleum, gas, power, and communication, and all structures that are integral parts of utility systems); "Highway, Street, and Bridge Construction," "Other Heavy and Civil Engineering Construction," "Foundation, Structure, and Building Exterior Contractors," Building Equipment Contractors," "Building Finishing Contractors," and "Other Specialty Trade Contractors"

2. "Transit and Ground Passenger Transportation," which includes urban transit systems, taxi and limousine services, interurban and rural bus transportation, other transit and group passenger transportation (except Charter Bus Industry), and rideshare services (*see* Governor's Order for other categories)

3. "Air, Rail, Water, Truck Transportation," and affiliated "Support Activities," which includes delivery and distribution services, and Philadelphia ports and port-related functions (*see* Governor's Order for other categories)

4. "Waste Management and Remediation Services," which includes trash collection and essential sanitation or cleaning of public right of ways (*e.g.*, sidewalks and streets) (*see* Governor's Order for other categories)

5. "Broadcasting," which includes radio and television broadcasting, and cable and other subscription programing (*see* Governor's Order for other categories)

6. "Publishing industries," which includes newspapers, periodicals, books, magazines, and directory publishers (*see* Governor's Order for other categories)

7. "Telecommunications" (except telecommunications resellers), which includes wireless telecommunications carriers (*see* Governor's Order for other categories)

8. "Manufacturing," which includes all manufacturing of: food and beverages; medical supplies and equipment; HVAC equipment; plastics, rubber, cement/concrete, iron, steel, ferroalloy, and aluminum; semiconductor, electrical electromedical, navigational, control instrument components and products (*see* Governor's Order for other categories)

   i. "Pharmaceutical and Medicine Manufacturing" is defined to include all essential activities and support activities related to ensuring the availability of in-vivo diagnostic substances and pharmaceutical preparations intended for internal and external consumption in dose forms, such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions, as well as biological products, such as vaccines, toxoids, blood fractions, and culture media of plant or animal origin

   ii. The prohibition on "Apparel Manufacturing" in the Governor's Order does not apply to the manufacturing or sale of essential uniforms and apparel for medical and healthcare professionals and public safety officers (*e.g.*, police officers and firefighters)

9. "Wholesale Trade," which includes all wholesale trade of: food, groceries, and related products; pharmaceutical medical, healthcare, and wellness products; medical supplies and equipment; life-sustaining public health products; and all permissible Retail Trade products under the Governor's Order (*see* Governor's Order for other categories)

10. "Professional Businesses and Services," which includes:

    i. "Scientific Research and Development Services," *e.g.*, all essential research and development and support activity relating to Pharmaceutical and Medicine Manufacturing and biotechnology activity (*see* Governor's Order for other categories)

    ii. *See* Section 3.C. regarding "Legal Services"

H. **Essential Healthcare and Social Services Businesses and Activities** include:

1. All medical or healthcare related services and support services, including "Hospitals"; "Nursing and Residential Care Facilities"; "Ambulatory Health Care Services" (offices of physicians, dentists, and other health practitioners); urgent care facilities; and mental and behavioral health providers

2. "Social Assistance" includes businesses that provide essential food, shelter, and critical social services for economically disadvantaged or otherwise needy individuals are not prohibited from providing essential food, shelter, and services; and residential facilities and shelters for seniors, adults, and children

I. **Essential Governmental Functions** includes all services needed to ensure the continuing operation of the government agencies and provide for the health, safety and welfare of the public, including City Essential Infrastructure Projects.

J. **Essential Educational Functions** include:

1. Elementary and secondary schools maintaining preparation and distribution of meals for children (with essential staff only)

2. Colleges and universities supporting residence halls where students must reside (with essential staff only)

Additional Essential Businesses may be determined by the Department of Public Health, consistent with the Governor's Order, and shall be identified at phila.gov/COVID-19.

Section 2. Prohibition on Operation of Office-Based Businesses

A. No office-based or co-working space business or organization, other than an Essential Business, may operate the business generally with personnel located in such office.

B. Businesses required to suspend physical operations may only have essential on-site personnel to maintain critical functions, such as security, processing of essential operations (*e.g.*, payroll and benefits for employees; maintaining remote technology infrastructure; and facilitating "Facilities Support Services" permitted by the Governor's Order, which are services such as

janitorial, maintenance, trash disposal, guard and security, mail routing, and reception). Businesses are also permitted to maintain essential on-site personnel to ensure compliance with federal, state and local regulatory requirements, and for the safety and security of essential government services. All businesses must follow social distancing and COVID-19 mitigation guidance provided by the U.S. Center for Disease Control, the Pennsylvania Department of Health, and the Philadelphia Department of Public Health. The business and activities described in this section are "**Essential Minimum Basic Operations**."

Section 3. Other Non-Essential Businesses and Activities

A. Businesses that are not listed as Essential Businesses or Life-Sustaining by the Commonwealth are non-essential businesses. For the avoidance of doubt, non-essential retail businesses that cannot operate include, among other things, movie theaters, clothing-only stores, fitness clubs (yoga, barre, and spin facilities), personal care salons (hair salons, barbershops, and nail salons), arts and music venues, tour operators, social clubs, night clubs, bars, electronic and appliance stores, amusement facilities, food trucks, ice cream trucks, car dealerships, florists, office supply stores, stationery stores, book stores, furniture stores, gift stores, event halls, and shopping malls.

B. Child daycare facilities are non-essential businesses, unless they obtain a waiver to operate from the Commonwealth of Pennsylvania or the City of Philadelphia.

C. "Legal Services," specifically the practice of law, is governed by the rules established by the Supreme Court of Pennsylvania and/or the Administrative Office of Pennsylvania Courts. Restricted access to law offices and facilities by legal professionals, staff, and clients is permitted to the degree necessary to allow attorneys to participate in court functions deemed essential by a president judge per the Supreme Court's order of March 18, 2020 or orders of the courts of the United States, so long as social distancing and other mitigation measures are employed for the protection of lawyers, staff, and clients. Pursuant to the Governor's Order, all other business must be conducted remotely; necessary retrieval of files or other materials should be accomplished expeditiously.

D. Operators of non-life sustaining, non-emergency construction in Philadelphia shall have until 5:00 p.m. on March 27, 2020, to make construction sites safe and secure. Contractors are directed to take proper measures to protect adjacent properties, remove or fasten items that are or could become loose, secure sites against trespass, and complete work necessary to protect and ensure the structural integrity of buildings under construction. Occupied residential properties must be left in safe and habitable condition.

E. No storefront businesses may open or operate their storefronts unless they are Essential Businesses.

Section 4. Social Distancing Rules

A. Any business operating under and during the term of this Order must adhere to Social Distancing Rules, which include making efforts to maintain at least six (6) feet of space between individuals; frequently washing hands with soap and running water for at least twenty (20) seconds

and/or using hand sanitizer, refraining from shaking hands; covering coughs or sneezes with a sleeve or elbow (not hands); and regularly cleaning frequently touched surfaces, such as desks, tables, countertops, computers, phones, and door handles.

B. Businesses permitted to perform emergency household maintenance and repair services under this Order must: require the customer to clean and sanitize the work are prior to arrival; sanitize the work area themselves before and after completing the work; ask that occupants keep a personal distance of 10-feet at a minimum during work; and allow in the residence only the number of workers necessary to complete the emergency maintenance or repair.

Section 5. Gatherings of Individuals

All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Emergency Order. This does not apply to activities related to Essential Businesses and Activities or Essential Personal Activities, which must observe the requirements under 4.A.

Section 6. Stay at Home Order

A. All Philadelphia residents shall remain home or at their place of residence unless they are engaged in **Essential Personal Activities**, which include:

1. obtaining essential goods or services from Essential Businesses, such as obtaining pre-ordered takeout food or beverages from restaurants, acquiring groceries, obtaining medical prescriptions or supplies, or any other products from Essential Businesses for themselves, family, household members, and pets
2. seeking any form of medical attention, including through Essential Healthcare and Social Services Businesses and Activities, or seeking assistance from law enforcement or emergency services for themselves, family, household members, and pets
3. caring for family members, friends, or a pet in another household, including delivering essential goods or obtaining emergency services and attention
4. reporting to, or performing, their job related to Essential Business, Essential Minimum Operations, or Essential Government Function
5. walking, running, cycling, operating a wheelchair, or engaging in outdoor activities with immediate family members, caretakers, household members, or romantic partners while following Social Distancing Rules with other individuals, which includes staying six feet apart
6. leaving the home for an educational, religious, or political reason

7. leaving because of a reasonable fear for health or safety
8. leaving at the direction of law enforcement or other government agency
9. engaging in any other activities or performing tasks essential to health and safety, or to the health and safety of themselves, family, household members, or pets

B. Individuals experiencing homelessness are exempt from this directive, but are strongly urged to obtain shelter, and City agencies and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable(and to use in their operation COVID-19 risk mitigation practices recommended by the U.S. Center for Disease Control, the Pennsylvania Department of Health, and the Philadelphia Department of Public Health). Individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a safe alternative location.

Section 7. Exemptions from the Governor's Order

A. In extenuating circumstances, special exemptions to the Governor's Order will be granted by the Commonwealth. Businesses seeking a waiver should comply with the Governor's Order and suspend in-person, physical operations until a waiver is approved and provided.

B. Businesses performing Essential Governmental Functions, including essential Construction for the City of Philadelphia need not obtain an exemption from the Commonwealth.

Section 8. Effective Date and Duration

This Order shall supersede the Emergency Order issued by the Health Commissioner dated March 12, 2020, which forbade mass gatherings, and the Emergency Order issued by the Mayor and Health Commissioner dated March 17, 2020, which prohibited operation of non-essential businesses. This Order shall become effective as of **Monday, March 23 at 8:00 AM**, and shall remain in effect indefinitely, until rescinded, superseded, or amended by further Order. Failure to comply with this Order shall result in orders to cease operations and the imposition of such other remedies and penalties as provided for by law.

Date: March 22, 2020

James F. Kenney, Mayor
City of Philadelphia

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