COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR

ORDER OF
THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA
FOR MITIGATION, ENFORCEMENT, AND IMMUNITY PROTECTIONS

WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention declared the novel coronavirus disease 2019 ("COVID-19") a pandemic; and

WHEREAS, the COVID-19 pandemic has created a national emergency in the United States of America; and

WHEREAS, pursuant to section 7301(a) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(a), I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania ("Commonwealth") that result from disasters; and

WHEREAS, on March 6, 2020, pursuant to section 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(c), I proclaimed the existence of a disaster emergency throughout the Commonwealth as a result of COVID-19, and further extended the disaster emergency by Amendment on June 3, 2020, and August 31, 2020; and

WHEREAS, in executing the extraordinary responsibility outlined above, I am authorized during a disaster emergency to issue, amend and rescind executive orders, proclamations and regulations and those directives shall have the force and effect of law pursuant to 35 Pa. C.S. § 7301(b); and

WHEREAS, in addition to my authority, the Secretary of Health may order general control measures, including, but not limited to, closure, isolation, and quarantine; and

WHEREAS, this authority is granted to the Secretary of Health pursuant to Pennsylvania law. See section 5 of the Disease Prevention and Control Law, 35 P.S. § 521.5; sections 2102(a) and 2106 of the Administrative Code of 1929, 71 P.S. §§ 532(a), and 536; and the Department of Health's regulations at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures; isolation; quarantine; movement of persons subject to isolation or quarantine; and release from isolation and quarantine). Particularly, the Department of Health has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. See 35 P.S. § 521.5; 71 P.S. §§ 532(a), and 1403(a); 28 Pa. Code § 27.60; and

WHEREAS, following an initial curtailing of COVID-19 spread due to the Commonwealth's mitigation efforts, a second wave of COVID-19 cases began in the summer months; and

WHEREAS, despite all efforts taken to date, the pandemic continues to spread, and taking action to prevent that spread while continuing to allow for necessary resumption of economic and social activity requires the Commonwealth to take steps to minimize the danger to Pennsylvanians as a result of participating in that activity; and

WHEREAS, further immediate action is required to mitigate the imminent spread of the disease, and associated health hazards presented by COVID-19, and to enforce the protections necessary to support the response of the Commonwealth to the threat of COVID-19; and

WHEREAS, as of November 21, 2020, the Commonwealth had 302,564 positive cases of COVID-19 in all sixty-seven counties and 9,801 deaths from COVID-19; and

WHEREAS, the Commonwealth is now recording daily COVID-19 cases and hospitalizations in greater numbers than at any other time during this pandemic; and

WHEREAS, in addition to my general powers, during a disaster emergency I am authorized specifically to:

- *suspend any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency;*
- *utilize all resources of the Commonwealth and each political subdivision as reasonably necessary;*
- *transfer the direction, personnel, or functions of Commonwealth agencies or units thereof for performing or facilitating emergency services;*
- *direct and compel the evacuation of all or part of the population from any stricken or threatened area;*
- *control ingress and egress to and from a disaster area and the movement of persons within the area and the occupancy of premises therein. 35 Pa. C.S. § 7301(f).*

WHEREAS, pursuant to 35 Pa. C.S. § 7704(a), neither the Commonwealth nor any political subdivision thereof nor other agencies nor, except in cases of willful misconduct, the agents, employees or representatives of any of them engaged in any emergency services activities, nor, except in cases of willful misconduct or gross negligence, any individual or other person under contract with them to provide equipment or work on a cost basis to be used in disaster relief, nor, except in cases of willful misconduct or gross negligence, any person, firm, corporation or an agent or employee of any of them engaged in disaster services activities, while complying with or attempting to comply with this part of the Emergency Management Services Code or any rule or regulation promulgated pursuant to the provisions of this part of the Emergency Management Services Code, shall be liable for the death of or any injury to persons; and

WHEREAS, the emergent need for enforcement measures adopted by my Administration herein require calling upon classification of individuals enumerated herein to perform acts that they would not perform in the ordinary course of business and it is in the public interest to afford such classifications of individuals protection against liability for good faith actions taken in their efforts; and

WHEREAS, due to the nature of this disaster, the classification of individuals enumerated herein are providing the citizens of the Commonwealth with essential emergency services activities and disaster services activities as contemplated by 35 Pa. C.S. § 7704(a) when enforcing the orders of the Governor and the Secretary of Health in retail or restaurant establishments.

NOW THEREFORE, pursuant to the authority vested in me and the executive branch by the laws of the Commonwealth of Pennsylvania, I do hereby ORDER and PROCLAIM as follows:

Section 1. General Requirements for Businesses Maintaining In-Person Operations, other than Health Care Providers

A. Teleworking

Unless impossible, all businesses must conduct their operations remotely, through individual teleworking of their employees in the jurisdiction or jurisdictions in which they do businesses. Where telework is impossible, employees may conduct in-person business operations, provided that the business fully complies with this Order, and all existing and future applicable guidance issued by the Wolf Administration, the Department of Health, and Centers for Disease Control and Prevention (CDC).

B. Cleaning and Mitigation Protocols

A business maintaining in-person operations, other than Health Care providers, shall do the following:

i. Cleaning:

a. In addition to maintaining pre-existing cleaning protocols established in the business, as specified in paragraph b, clean and disinfect high-touch areas routinely in accordance with CDC guidelines, in spaces that are accessible to customers, tenants, employees, or other individuals;

b. Maintain pre-existing cleaning protocols established by the business for all other areas of the building;

c. ***Based on the building size and number of employees and customers, alter hours of business so that the business has sufficient time to clean or to restock or both;***

d. ***Close off areas visited by a person who is a case of COVID-19. Open outside doors and windows and use ventilation fans to increase air circulation in the area. Wait a minimum of 24 hours, or as long as practical, before beginning cleaning and disinfection. Cleaning staff should clean and disinfect all areas such as offices, bathrooms, common areas, including but not limited to employee break rooms, conference or training rooms and dining facilities, shared electronic equipment like tablets, touch screens, keyboards, remote controls, and ATM machines used by the ill person, focusing especially on frequently touched areas;***

e. ***Where carts and handbaskets are available for customers' use, assign an employee to wipe down carts and handbaskets before they become available to each customer entering the premises.***

f. ***In businesses with checkout counters and registers, take appropriate steps to stagger register and counter use so that those areas may be cleaned appropriately, at least once every hour, without causing customers to gather in large groups and to be unable to practice physical distancing.***

ii. ***Mitigation Measures:***

a. ***Implement temperature screening before employees enter the business, prior to start of each shift or, for employees who do not work shifts, before the employee starts work, and send employees home that have an elevated temperature or fever of 100.4 degrees Fahrenheit or higher. Require employees to practice physical distancing while waiting to have temperatures screened by placing marks at six-foot distances.***

b. ***Stagger work start and stop times for employees when practicable to prevent gatherings of large groups entering or leaving the premises at the same time.***

c. ***Provide a sufficient amount of space for employees to have breaks and meals while maintaining a physical distance of 6 feet, arranging seating to have employees facing forward and not across from each other in eating and break settings.***

d. ***Stagger employee break times to reduce the number of employees on break at any given time so that appropriate physical distancing of at least six feet may be maintained.***

e. ***Limit persons in employee common areas (such as locker or break rooms, dining facilities, training or conference rooms) at any one time to the number of employees that can maintain a physical distance of six feet.***

f. ***Conduct meetings and trainings or other gatherings of employees and management virtually (i.e., by phone or through the internet). If a meeting must be held in person, limit the meeting to the number of individuals permitted to be present under Section 9 (Specific Requirements For Events And Gatherings Other Than In-Person Retail Businesses or Businesses In The Retail Food Services Industry).***

g. ***Provide employees access to regular handwashing with soap, hand sanitizer, and disinfectant wipes, including scheduling handwashing breaks as necessary, and ensure that common areas (including but not limited to break rooms, locker rooms, dining facilities, rest rooms, conference or training or conference rooms) are cleaned on a regular basis, including between any shifts.***

h. ***Provide and require that employees wear face coverings during their time at the business, except to the extent the employee is using break time to eat or drink, in accordance with the Secretary of Health's Updated Order Requiring Universal Face Coverings, dated November 17,***

2020, including any subsequent amendments. Employers may issue facemasks or can approve employees' supplied cloth face coverings in the event of shortages.

i. Have a sufficient number of employees to perform all measures listed effectively and in a manner that ensures the safety of the public and employees.

j. Have a sufficient number of personnel to control access, maintain order, and enforce physical distancing of at least six feet.

k. Prohibit non-essential visitors from entering the premises of the business.

l. Make all employees aware of these required procedures by communicating them, either orally or in writing, in their native or preferred language, as well as in English or by a methodology that allows them to understand.

iii. Contact Tracing:

a. Identify employees and customers, to the extent possible, who were in close contact (within about six feet for about 15 minutes) with a person with COVID-19 from the period 48 hours before symptom onset (or 48 hours prior to test date if asymptomatic) to the time at which the patient isolated and, upon request, provide those names and contact information to the Pennsylvania Department of Health or a local health department.

b. Promptly notify employees who were close contacts of any known exposure to COVID-19 at the business premises, consistent with applicable confidentiality laws.

iv. Employee Isolation or Quarantine:

a. If an employee becomes sick during the workday, the individual must be sent home immediately. An employee who has symptoms of COVID-19 before reporting to work should notify the employee's supervisor and remain home.

b. An employee who is a close contact of a person who is diagnosed with or tests positive for COVID-19, as defined by the Pennsylvania Department of Health or local health department in accordance with CDC guidance, may not continue to work at an in-person business, and must quarantine in accordance with the direction of the Pennsylvania Department of Health or the local health department.

c. If an employee is diagnosed with or tests positive for COVID-19, the employee may no longer work at an in-person business, even if asymptomatic, and must isolate in accordance with the direction of the Pennsylvania Department of Health or a local health department.

Section 2. General Requirements for Businesses Serving the Public in a Physical Space, including Inside or Outside of a Building

In addition to complying with the remainder of this Order, businesses that serve the public within a physical space, either indoors or outside, shall do the following:

A. Require employees and customers to maintain a physical distance of six feet at check-out and counter lines.

B. Place signage at the entrance to and throughout the business mandating universal face coverings and physical distancing for all individuals, including employees, entering the business.

C. Provide markings or other signage showing where six-foot distances are, to help all individuals entering the business, including employees, maintain physical distancing.

D. ***Post, at every entrance, a maximum capacity limit to ensure that a minimum of six-feet physical distance can be maintained throughout the location. This maximum capacity limit shall be clearly identified and displayed.***

E. ***Arrange store aisles to be directionally one-way, if required to achieve appropriate physical distancing.***

F. ***Place hand sanitizer stations at high-contact locations.***

G. ***Designate a COVID-19 compliance officer who is responsible for ensuring compliance with this Order and all other mitigation orders incorporated therein.***

H. ***Install plexiglass shields at registers and check-out areas to shield employees and customers or take other measures to ensure physical distancing of customers from check-out personnel, or close lines and counters to maintain a physical distance of six feet between customers.***

I. ***Provide for outside or curbside pick-up or delivery options, when feasible, by instituting online ordering or other such means.***

J. ***Designate a specific time for high-risk and elderly persons to use the business at least once every week if there is a continuing in-person customer-facing component.***

K. ***Require individuals entering the business to wear face coverings, in accordance with the Secretary of Health's Updated Order Requiring Universal Face Coverings, dated November 17, 2020, including any subsequent amendments, unless the individual qualifies for an exception in that Order, and deny entry to individuals not wearing face coverings or alternatives to face coverings, unless the business is providing medication, medical supplies, or food, in which case the business must provide alternative methods of pick-up or delivery of such goods.***

Section 3. Additional Capacity Limitations for Businesses

All in-person businesses serving the public within a building or defined area may operate at up to 75% of the maximum capacity stated on the applicable certificate of occupancy at any given time unless specifically subject to other requirements outlined below.

Section 4. Additional Requirements for Entertainment Industry

All in-person retail businesses serving the public within a building or defined area in the entertainment industry (museums, amusements, etc.) may operate at up to 50% of the maximum capacity stated on the applicable certificate of occupancy at any given time unless hosting an event or gathering subject to section 9. For purposes of this section, in-person retail businesses do not include those businesses covered by Sections 7 and 8.

Section 5. Additional Requirements for Gyms and Fitness Facilities

All gyms and fitness facilities are permitted to continue indoor operations at up to 50% occupancy, but must prioritize outdoor physical fitness activities. Outdoor and indoor activities must follow face covering requirements as provided by the Secretary of Health's Updated Order Requiring Universal Face Coverings, dated November 17, 2020, including any subsequent amendments, and must provide for physical distancing requirements of persons being at least six feet apart, as well as being limited by Section 9 (Specific Requirements For Events And Gatherings Other Than In-Person Retail Businesses or Businesses In The Retail Food Services Industry).

Section 6. Additional Requirements for Personal Care Services

Personal care services, including spas, saunas, tattoo parlors, massage therapists, hair and nail salons and barbershops, may operate at up to 50% occupancy and by appointment only.

Section 7. Additional Requirements for Businesses in the Retail Food Services Industry, Including Bars, Restaurants, and Private Catered Events

A. Bars

All bars are prohibited from conducting operations unless they offer sit-down, dine-in meals or take-out sales of alcoholic beverages. Alcohol only can be served for on-premises consumption when in the same transaction as a meal. All service must be at a table or booth; bar service is prohibited. All sale or dispensing of alcoholic beverages for on-site consumption must cease at 11:00 p.m. and no patron may possess alcoholic beverages within the establishment after midnight.

Take-out sales of alcohol for the purposes of off-site consumption are permitted subject to any limitations or restrictions imposed by Pennsylvania law. For purposes of this Order, occupancy requirements shall be the following:

i. Limited to 25% of stated fire code maximum occupancy for indoor dining.

ii. A discrete indoor event or gathering within a bar must comply with the limits in Section 9 (Specific Requirements For Events And Gatherings Other Than In-Person Retail Businesses or Businesses In The Retail Food Services Industry).

B. Restaurants & Private Catered Events

i. The Guidance for Businesses in the Restaurant Industry Permitted to Operate During the COVID-19 Disaster Emergency to Ensure the Safety and Health of Employees and the Public, dated May 27, 2020, as updated October 9, 2020, along with any future updates (the "Guidance"), is incorporated herein by reference, with the exception of occupancy requirements. For purposes of this Order, occupancy requirements shall be the following:

a. Limited to 25% of stated fire code maximum occupancy for indoor dining.

b. Discrete indoor event or gathering must comply with the limits outlined in Section 9 (Specific Requirements For Events And Gatherings Other Than In-Person Retail Businesses or Businesses In The Retail Food Services Industry).

ii. All businesses in the retail food services industry, including restaurants, wineries, breweries, private clubs and bars, are permitted to provide take-out and delivery sales of food, as well as dine-in service in both indoor and outdoor seating areas so long as they strictly adhere to the requirements of the Guidance, as required by this Order, including the following:

a. Non-bar seating in outdoor areas (i.e., tables or counter seats that do not line up to a bar or food service area) may be used for customer seating.

b. Customers being served must be seated at a table.

c. The maximum occupancy limit includes staff.

iii. Physical distancing, face covering, and other mitigation measures must be employed to protect workers and patrons.

iv. Alcohol only can be served for on-premises consumption when in the same transaction as a meal. All sale or dispensing of alcoholic beverages for on-site consumption must cease no later than 10:00 p.m. and no patron may possess alcoholic beverages within the establishment after midnight.

v. Take-out sales of alcohol for the purposes of off-site consumption are permitted subject to any limitations or restrictions imposed by Pennsylvania law.

C. Self-Certification

Notwithstanding the maximum occupancy requirements specified in Sections 7.A. (related to Bars) and 7.B. (related to Restaurants & Private Catered Events), an eligible establishment may increase non-event capacity limitations to 50% of stated fire code maximum occupancy for indoor dining if the establishment enrolls in and complies with the Open & Certified Pennsylvania program administered by the Department of Community and Economic Development. Discrete events within open and certified establishments remain

subject to Section 9 (Specific Requirements For Events And Gatherings Other Than In-Person Retail Businesses or Businesses In The Retail Food Services Industry).

Section 8. Requirements for Nightclubs

All nightclubs as defined by the Clean Indoor Air Act, 35 P.S. § 637.2, are prohibited from conducting operations.

Section 9. Requirements For Events And Gatherings

A. Venues hosting events or gatherings must determine their established occupancy limit as defined by the National Fire Protection Association (NFPA) Life Safety Code and then apply the attendee calculator to determine how many attendees are permitted to attend the event or gathering.

i. Maximum Occupancy Calculator for indoor events:

Maximum Occupancy	*Allowable Indoor Rate*
0-2,000 people	*10% of Maximum Occupancy*
2,001 - 10,000 people	*5% of Maximum Occupancy*
Over 10,000 people	*No events over 500 people*

ii. Maximum Occupancy Calculator for outdoor events:

Maximum Occupancy	*Allowable Outdoor Rate*
0-2,000 people	*15% of Maximum Occupancy*
2,001 - 10,000 people	*10% of Maximum Occupancy*
Over 10,000 people	*5% of Maximum Occupancy up to 2,500 people*

B. When no fire code capacity is published or available for outdoor events or gatherings venues, establish occupancy as 67 people per 1000 square feet and then apply the maximum occupancy calculator. Venues may also contact their local building code officials if they are unaware of their occupancy limit.

C. For the purposes of this Order, "event and gathering" is defined as: A temporary grouping of individuals for defined purposes, that takes place over a limited timeframe, such as hours or days. For example, events and gatherings include fairs, festivals, concerts, or shows and groupings that occur within larger, more permanent businesses, such as shows or performances within amusement parks, individual showings of movies on a single screen/auditorium within a multiplex, business meetings or conferences, or each party or reception within a multi-room venue.

D. The maximum occupancy limit includes staff.

E. Venues must require attendees to comply with 6-foot physical distancing requirements, to wear masks or face coverings in compliance with the Secretary of Health's Updated Order Requiring Universal Face Coverings dated November 17, 2020, including any subsequent amendments, and implement best practices such as timed entry, multiple entry and exit points, multiple restrooms and hygiene stations. Venues and event planners may refer to the CDC Events and Gatherings Readiness and Planning Tool for additional information regarding best practices.

Section 10. Visitations to Prisons and Hospitals

Visitation to prisons and hospitals is subject to the determination of the individual facilities which may limit visitation as necessary based on risk of COVID-19. Visitors who interact with residents and patients must be diligent regarding hygiene, face coverings and physical distancing.

Section 11. Exemptions

A. Religious Gatherings

i. Churches, synagogues, temples, mosques and other places of congregate worship are specifically excluded from the limitations established in Section 9 of this Order during religious services. These institutions are strongly encouraged to enforce physical distancing and other mitigation measures at their gatherings.

ii. Conventions, retreats, and other gatherings that may be sponsored or held by these religious entities that are not the actual worship service are required to comply with this Order.

iii. Attendees at churches, synagogues, temples, mosques and other places of congregate worship are required to wear face coverings in compliance with the Secretary of Health's Updated Order Requiring Universal Face Coverings, dated November 17, 2020, including any subsequent amendments.

B. This Order does not apply to health care workers exposed to COVID-19. In the event of an exposure, the guidelines in PA-HAN-510 or its successor must be followed.

Section 12. Effect on Previous Orders of the Governor

A. To the extent they are not already superseded, the following Orders are rescinded and superseded by this Order:

i. Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses that are not Life Sustaining dated March 19, 2020, as amended.

ii. Order of the Governor of the Commonwealth of Pennsylvania for Individuals to Stay at Home dated April 1, 2020, as amended.

iii. Order of the Governor of the Commonwealth of Pennsylvania for Limited Opening of Businesses, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts dated May 7, 2020.

iv. Order of the Governor of the Commonwealth of Pennsylvania for the Continued Reopening of the Commonwealth dated May 27, 2020.

v. Order of the Governor of the Commonwealth of Pennsylvania Directing Targeted Mitigation Measures, dated July 15, 2020, as amended.

Section 13. Enforcement

Along with enforcement mechanisms available against any other person who violates of this Order, the following enforcement mechanisms are available against retail establishments and restaurants:

A. For purposes of this Section and Section 13, the following definitions apply:

i. Retail Establishment: An establishment that sells goods or services to the public or is open to the public.

ii. Restaurant: An establishment where food or drink is served to or provided for the public, with or without charge.

B. All retail establishments and restaurants found in noncompliance with this Order during the course of an investigation or inspection shall receive an initial warning letter. Upon receipt of the warning letter, the retail establishment or restaurant shall engage in rigorous cleaning, and imposition of other mitigation measures as necessary to ensure compliance with this Order.

C. Upon a subsequent visit, if a second violation is found, then the retail establishment or restaurant shall immediately correct the violation and may receive a citation and/or fine. The retail establishment or restaurant shall be directed to close for a period of up to 24 hours beginning the day of notice of the second violation. During the closure period, the retail establishment or restaurant shall engage in rigorous cleaning and reimpose all mitigation measures as necessary to ensure compliance with this Order.

D. Upon a subsequent violation, the retail establishment or restaurant shall be directed to close for a period of at least 24 hours beginning immediately upon the finding of the violation, together with additional fines and penalties and referral for criminal

prosecution for obstructing the administration of law or other governmental function, pursuant to the Pennsylvania Crimes Code, 18 Pa. C.S. § 5101.

E. Prior to re-opening, the retail establishment or restaurant shall correct all cited violations. The retail establishment or restaurant shall be permitted to reopen prior to a revisit so long as they have effectively corrected all violations. Failure to correct all cited violations will result in enhanced penalties upon revisit.

Section 14. Limited Immunity Related to Universal Face Coverings

I hereby declare that the following classifications of individuals and entities are engaged in essential emergency services activities and disaster services activities when enforcing the Secretary of Health's Updated Order Requiring Universal Face Coverings, effective November 18, 2020, including any subsequent amendments, and, therefore, pursuant to 35 Pa. C.S. § 7301 I hereby declare that the following classifications of individuals and entities are engaged in essential emergency services activities and disaster services activities when enforcing the November 17, 2020 Updated Order of the Secretary of Pennsylvania Department of Health Requiring Universal Face Coverings, including any subsequent amendments, and, therefore, pursuant to 35 Pa. C.S. § 7704(a) of the Emergency Management Services Code, are entitled to immunity from civil liability only as related to enforcement of the Secretary of Health's Updated Order Requiring Universal Face Coverings, effective November 18, 2020, including any subsequent amendments, except in cases of willful misconduct, gross negligence, recklessness or bad faith:

- ***Business (including not-for-profit) and restaurant owners and employees***
- ***Commonwealth of Pennsylvania employees and authorized agents***
- ***Personnel of local health departments***
- ***State and local law enforcement personnel***
- ***Personnel of other authorized government agencies***

This Order does not entitle the enumerated classification of individuals to any other rights, privileges, status, benefits or emoluments other than those that might be otherwise applicable by operation of agency law. This Order shall not apply to liability of employers with respect to their employees.

The immunity protection is without regard for whether such individuals receive remuneration. Finally, aforementioned classifications of individuals shall be immune from civil liability and shall not be liable for the death of or any injury to a person or for loss of or damage to property as a result of enforcing the Secretary of Health's Updated Order Requiring Universal Face Coverings, effective November 18, 2020, including any subsequent amendments, in retail establishments and restaurants, except in cases of willful misconduct, gross negligence, recklessness or bad faith, to the fullest extent permitted by law. This grant of immunity shall not extend to the aforementioned classification of individuals rendering non-COVID-19 enforcement emergency services.

Section 15. Effective Date and Duration

This Order shall take effect at 12:01 a.m. on November 27, 2020, and shall remain in effect until further notice.

GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, on this twenty-third day of November two thousand twenty, the year of the commonwealth the two hundred and forty-fifth.

TOM WOLF
Governor