



MAY 1, 2020 • NO. 3

## City of Philadelphia Issues Guidance for Resumption of Construction in Philadelphia

*On March 22, 2020, the City of Philadelphia issued a Prohibition on Non-Essential Business that mandated the closure of a wide range of commercial and retail businesses operating in Philadelphia, including all non-emergency residential and commercial construction. This advisory provides an update to clients regarding the permitted resumption of construction activity in Philadelphia **effective May 1, 2020**, and guidance regarding compliance with the new public health and safety regulations. For up-to-date advice on real estate issues regarding COVID-19, please [contact us](#).*

### PROJECTS AUTHORIZED TO RESUME

A City of Philadelphia Executive Order, signed April 29, 2020, permits certain construction projects that were halted in March 2020 to resume. At this time, only projects with permits issued **on or before March 20, 2020** are permitted to resume. There is an exception for projects that pose an imminent risk to public health, which are permitted to resume only after issuance of a separate make-safe permit.

### LIMITATIONS ON THE SCOPE OF WORK

Regardless of the status of any permits or approvals, the City's April 29, 2020 Executive Order prohibits the following activities:

- Underpinning or the commencement of projects that will require underpinning.

- Demolition of any attached structure.
- All projects that require the support of an existing party wall.
- Non-emergency work in any occupied residential dwelling unit (*i.e.*, no work is permitted in occupied single-family homes, apartments, or condominium units).
- Non-emergency work in shared common areas of multi-family residential buildings.

### REQUIRED PREPARATION TO RESUME CONSTRUCTION

The April 29, 2020 Executive Order contains a number of additional safety requirements that each contractor must comply with prior to resuming work. These requirements

are for the protection of both workers and the general public and must be strictly adhered to on all job sites. In summary, the new safety requirements include:

- A Pandemic Safety Officer for every active construction site. This officer must have, and be able to produce upon demand, a COVID-19 training certificate from Occupational Safety and Health Administration (“OSHA”) or another approved educator. Information on an OSHA approved course specifically referenced by the Department of License and Inspection can be found [here](#).
  - If a construction site already has a Site Safety Manager, that person can also serve as the pandemic safety officer.
- Every construction site must have a written COVID-19 safety plan, and all such plans must include a procedure for job-site response to a COVID-19 exposure and guidance for compliance with all City and State health guidelines. This safety plan must be kept on-site and remain available for review by inspectors.

## NEW CONSTRUCTION SITE REQUIREMENTS

The April 29, 2020 Executive Order also includes new limitations on the operation of all jobsites. Specifically, regardless of permitting status, all jobsites that resume pursuant to the April 29, 2020 Order must comply with the following:

- No more than four workers on-site for any one or two-family dwelling projects.
- No more than four workers on-site for any commercial or multi-family projects under 2,000 enclosed square feet. Larger site may add an additional on-site worker for each additional 500 square feet of enclosed space.
- Work may commence on May 1, 2020 at 7:00 a.m., and work is only permitted Monday through Friday, 7:00 a.m. to 5:00 p.m.
- All workers must wear masks at all times and must maintain six feet of separation while working and during breaks.

- All workers must be provided regular access to handwashing stations and sanitizer.
- High touch areas and shared tools must be cleaned and disinfected regularly, with tool sharing discouraged as much as possible.

## PERMIT STATUS

Finally, the April 29, 2020 Executive Order creates an important carve-out for projects that are proceeding under newly issued permits. The City of Philadelphia, as part of the March 22, 2020 Order, suspended the traditional 30-day period during which a zoning, building, demolition, or other permit can be appealed. Under this guidance, permits issued from March 13, 2020 on continue to be appealable until after the emergency declaration is lifted, and contractors and developers should understand that any resumption of construction carries some risk of a future appeal, given the deadline extension. The April 29, 2020 Executive Order specifically states that work based on permits where an appeal right still exists due to the pandemic extension is done at the builders’ risk and are not subject to a claim of vested rights. We encourage all clients with a potentially appealable permit to contact our office to discuss any appropriate steps to mitigate the risk of an appeal.

Blank Rome’s [Coronavirus \(“COVID-19”\) Task Force](#) is continuing to monitor the COVID-19 crisis and will provide further updates for contractors and developers as they become available.

## For additional information, please contact:

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