



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

**BILL NO. 200574
(As Amended, 11/10/20)**

Introduced October 22, 2020

Councilmembers Henon, Bass and Gym

**Referred to the
Committee on Commerce & Economic Development**

AN ORDINANCE

Amending Title 9 of The Philadelphia Code to address matters related to commercial leases and provide eviction and financial relief to restaurant businesses that operate on leased premises, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Council of the City of Philadelphia hereby finds that:

- (1) On March 6, 2020, in response to the 2019 novel coronavirus disease, COVID-19, the Governor of Pennsylvania issued a Proclamation of Disaster Emergency.
- (2) On March 11, 2020, the World Health Organization (“WHO”) declared the COVID-19 outbreak a global pandemic, defined as the worldwide spread of a new virus for which most people do not have immunity.
- (3) On March 19, 2020, the Governor of Pennsylvania and Pennsylvania Secretary of Health ordered all non-life-sustaining businesses in Philadelphia and the surrounding counties to close their physical locations to slow the spread of COVID-19, which remained in place for Philadelphia through June 5, 2020.
- (4) On March 22, 2020, the Mayor and the Commissioner of Public Health jointly issued their second Emergency Order Temporarily Prohibiting Operation of Non-Essential Businesses and Congregation of Persons to Prevent the Spread COVID-19, which has been superseded, in part, by a series of orders that gradually allowed for the reopening of businesses in Philadelphia with significant restrictions to protect the public health.

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(5) On March 23, 2020, the Governor of Pennsylvania issued a Stay at Home Order that applies to Philadelphia and numerous surrounding counties, and which remained in place for Philadelphia through June 5, 2020.

(6) The local and state orders shut down or reduced the operations of many businesses in Philadelphia. 99.7% of Greater Philadelphia's economy consists of small businesses.

(7) These business closures and stay at home orders were necessary measures to prevent the spread of COVID-19 and had the effect of reducing the spread of COVID-19 in Philadelphia, thereby saving lives.

(8) Between March and September of 2020, Philadelphia's restaurants, recognized as a gem of the City's economy and attractiveness to visitors and businesses, were closed as non-essential, then limited to take-out, then limited to outdoor-only dining.

(9) Only on October 2, 2020, under an order by the City and pursuant to overarching state rules, were Philadelphia restaurants permitted to recommence indoor service. Again, however, severe limitations apply, including half their normal occupancy, limited group sizes, limited hours for alcohol sales, and no bar seating.

(10) The Secretary of Health of the Commonwealth and the Philadelphia Department of Public Health continue to impose these necessary restrictions on restaurant operations to reduce transmission of the virus, including, but not limited to, limiting the occupancy of restaurants and mandating cleaning protocols.

(11) Restaurants are doing their part to combat the spread of COVID-19, but have seen their revenues drop by an average of 49%, and at least 100,000 restaurants have closed permanently nationwide. In many cases, restaurants may be saved with appropriate extensions and accommodations to their commercial lease terms.

(12) The COVID-19 pandemic's negative impact on the lives and incomes of Philadelphians and the businesses they operate—including restaurants—has exacerbated negative impact on Philadelphia's economy and City revenues. The measures set forth in this Ordinance are necessary to ensure that restaurants—largely small businesses—are able to stay in business to support an equitable recovery.

SECTION 2. Chapter 9-1800 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

* * *

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CHAPTER 9-1800. [RESERVED] PROTECTING PHILADELPHIA'S RESTAURANTS DURING THE COVID-19 PANDEMIC

§ 9-1801. *Moratorium on Restaurant Evictions.*

(1) *Scope. This section shall apply to businesses operating as restaurants that meet all of the following conditions:*

(a) *Licensure as a food establishment under Section 6-301(4)(a), relating to food establishments with permanent location where the primary business is the regular and customary preparation and sale of food for consumption on or off the premises, including but not limited to, eating and drinking establishments and caterers.*

(b) *The premises on which the restaurant is operated is occupied pursuant to a commercial lease, without a written lease, or with a lease terminable under State law.*

(c) *The restaurant owner or operator operates no more than three restaurant locations under the same name within the City of Philadelphia.*

(d) *The restaurant owner or operator employs no more than 100 employees at the restaurant location.*

(e) *The owner or operator can demonstrate one of the following:*

(i) *A loss of revenue of 50% or more at the restaurant for the period beginning April 1, 2020, and ending May 31, 2020, as compared to the period beginning April 1, 2019, and ending May 31, 2019; or*

(ii) *If the restaurant was not in operation for the full period between April 1 and May 31, 2019, a loss of revenue of 50% or more for the period beginning April 1, 2020, and ending May 31, 2020, as compared to the period beginning February 1, 2020, and ending March 31, 2020.*

(2) *Food Establishment Certificate of Hardship. A certification pursuant to Section 9-809(1)(a)(.2) (pertaining to commercial tenant certifications of hardship) by a food establishment that is the lessee under a commercial lease.*

(3) *Temporary Moratorium on Restaurant Evictions. During the 120-day period beginning on the date the ordinance adding this Section takes effect, where the lessee has provided the lessor with a food establishment certificate of hardship, the following shall apply:*

(a) *the only legal basis for eviction shall be to cease or prevent an imminent threat of harm by the lessee, including physical harm or harassment, and it shall be unlawful for a lessor to take any step in furtherance of recovering possession on any other basis.*

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(b) a lessor shall not charge fees, penalties, or other charges to the lessee related to nonpayment of rent.

(4) Notice. For one year following the expiration of the moratorium provided for under subsection (2), where the lessee has provided the lessor with a food establishment certification of hardship, the lessor shall not evict the lessee that is the subject of the food establishment certification of hardship unless the lessor provides a notice of intent to evict such lessee not less than 30 days prior to the date of the eviction.

SECTION 2. This Ordinance shall be effective immediately.