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Memorandum Regarding Outdoor Seating at Food Service Establishments

Prepared by Michael Levine, Building Inspector

June 9, 2020

As provided by the Guidelines established by New York State and the Town of Southeast, establishments are permitted to open outdoor spaces with seating.

The following requirements must be adhered to:

1. Reopening New York-Outdoor and Take-out/Delivery Food Services: Guidelines for Employers and Employees
2. Interim Guidance for Outdoor and Take-Out/Delivery Food Services During the Covid-19 Public Health Emergency (with required Affirmation)
3. NY Forward Safety Plan Template for Covid-19 Reopening Safety Plan
4. Local Law No. 5 of the year 2020 Section 2. Temporary Permits for Outdoor Dining

The application to the Town will be submitted to the Building Department in accordance with the requirements noted in Section 2. Temporary Permits for Outdoor Dining described in Local Law No. 5.

The operator of the establishment shall indicate compliance with the NYS affirmation and Safety Plan. A copy of the Safety Plan shall be available during inspection of the premises.



Reopening New York



NEW YORK STATE

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During the COVID-19 public health emergency, all operators of outdoor and take-out/delivery food service sites should stay up to date with any changes to state and federal requirements related to such establishments and incorporate those changes into their operations. This guidance is not intended to replace any existing applicable local, state, and federal laws, regulations, and standards.

	Mandatory	Recommended Best Practices
Physical Distancing	<ul style="list-style-type: none"> ✓ In outdoor spaces, all tables with seats must be at least 6 ft. from any other table, seat, patron, or pedestrian thoroughfare or corridor. ✓ Ensure an indoor capacity to accommodate patrons who may need to enter/exit through the indoor space to access the outdoor seating, restroom(s), or payment location, and allow such access/egress in a socially distanced manner. ✓ Close indoor dining and seating areas to customers. ✓ Employees must wear face coverings at all times. ✓ Patrons must wear face coverings at all times, except while seated; provided that the patron is over the age of two and able to medically tolerate one. ✓ Limit outdoor capacity to the number of tables that can be safely and appropriately arranged, such that each table is a minimum of 6 ft. away from another. Wherever distancing is not feasible between tables, enact physical barriers between such tables. ✓ Individuals seated at the same table must be members of the same party (but may be from different households), with a maximum of 10 people per table. Communal tables are only permitted if at least 6 ft. can be maintained between parties. ✓ Clearly signal 6 ft. spacing in any lines for customers waiting to order, pick-up food, be seated, or use the restroom, as well as in any pick-up or payment location. ✓ Designate entrances/exits for customers and separate entrances/exits for employees, where possible. ✓ Limit in-person gatherings (e.g. staff meetings) to the greatest extent possible. ✓ Establish designated areas for vendor pickups and/or deliveries, limiting contact to the extent possible. 	<ul style="list-style-type: none"> ✓ Ensure a distance of at least 6 ft. is maintained among workers at all times, unless the core activity requires a shorter distance. (e.g. cooking, cleaning, clearing tables). ✓ Prohibit the use of small spaces (e.g. freezers, storage rooms) by more than one individual at a time. ✓ Modify the use and/or restrict the number of work stations/employee seating areas to maintain 6 ft. distance. ✓ Designate discrete work zones for services, where possible. Servers should serve specific zones in the restaurant to minimize overlap. ✓ Ensure kitchen staff are dedicated to one station throughout their entire shift. (e.g. salad or grill or desserts), to the extent possible. ✓ Encourage kitchen staff to place items on the counter for the next person to pick-up, rather than passing items from hands to hands. ✓ Reduce bi-directional foot traffic by using tape or signs with arrows in narrow aisles, hallways, or spaces. ✓ Encourage customers to wait in their car or outside until food is ready to be picked up/they're ready to be seated. ✓ Encourage customers to place orders online or by phone. ✓ Allow for contactless order, payment, delivery, and pick-up, where possible. ✓ Allow customers to order food prior to arrival, and encourage customer reservations for seating. ✓ Ensure a one-at-a-time process for vendors, in which one vendor delivers a product at a time, employees disinfect high touch surface, and the next vendor can come on premises.

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During the COVID-19 public health emergency, all operators of outdoor and take-out/delivery food service sites should stay up to date with any changes to state and federal requirements related to such establishments and incorporate those changes into their operations. This guidance is not intended to replace any existing applicable local, state, and federal laws, regulations, and standards.

	Mandatory	Recommended Best Practices
Protective Equipment	<ul style="list-style-type: none"> ✓ Provide workers with an acceptable face covering at no-cost to the employees and have an adequate supply of coverings in case of need for replacement. ✓ Acceptable face coverings include but are not limited to cloth (e.g. homemade sewn, quick cut, bandana), surgical masks, and face shields. ✓ Clean, replace, and prohibit sharing of face coverings. Consult the CDC guidance for additional information on cloth face coverings and other types of personal protective equipment (PPE), as well as instructions on use and cleaning. ✓ Train employees on how to don, doff, clean (as applicable), and discard PPE . ✓ Limit the sharing of objects (e.g. kitchen tools, pens/pads), as well as the touching of shared surfaces (e.g. doorknobs, keypads, touch screens); or, require workers to wear gloves when in contact with shared objects or frequently touched surfaces; or, require workers to perform hand hygiene before and after contact. ✓ Ensure all staff wear face coverings at all times and that they practice hand hygiene and use bare hand barriers consistent with state and local sanitary codes. <ul style="list-style-type: none"> • If employees wear gloves during non-food preparation activities, ensure they replace gloves frequently, and encourage them to change gloves when switching tasks (e.g. serving customers to pre-rolling silverware). • If employees do not wear gloves, ensure they frequently wash their hands with soap/water. ✓ Ensure that employees who are bussing tables wash their hands with soap/water and, if they wear gloves, replace the gloves before and after cleaning and disinfecting tables. 	<ul style="list-style-type: none"> ✓ Maintain adequate supply of face coverings, masks and other required PPE should a worker need a replacement, or should a vendor be in need. ✓ Require customers to wear face coverings when not seated at a table (e.g. when waiting for pickup, placing order at counter/window, walking to/from table, walking to/from restroom). ✓ Encourage, but don't require, customers to wear face coverings when seated at a table and not eating and/or drinking. ✓ In food trucks and concessions where there are not running water stations, employees should wear gloves or regularly use hand sanitizer and continue to comply with federal, state, and local food handling and hygiene requirements.



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	Mandatory	Recommended Best Practices
Hygiene and Cleaning	<ul style="list-style-type: none"> ✓ Adhere to hygiene, cleaning, and disinfection requirements from the Centers for Disease Control and Prevention (CDC) and Department of Health (DOH) and maintain logs that document date, time, and scope of cleaning. ✓ Provide and maintain hand hygiene stations including handwashing with soap, running warm water, and disposable paper towels, as well as an alcohol-based hand sanitizer containing 60% or more alcohol for areas where handwashing is not feasible. ✓ Provide and encourage employees to use cleaning and disinfection supplies for shared surfaces for use before and after use of these surfaces, followed by hand hygiene. ✓ Regularly clean and disinfect the establishment and more frequently clean and disinfect high risk areas used by many individuals and for frequently touched surfaces (e.g. restrooms). Cleaning and disinfection must be rigorous and ongoing and should occur at least after each shift, daily, or more frequently if needed. ✓ Ensure that equipment is regularly cleaned and disinfected using registered disinfectants, including at least as often as employees change workstations. Refer Department of Environmental Conservation (DEC) products identified by the Environmental Protection Agency (EPA) as effective against COVID-19. ✓ Provide cleaning and disinfection of exposed areas in the event of an individual is confirmed to have COVID-19, with such cleaning and disinfection to include, at a minimum, all heavy transit areas and high-touch surfaces . ✓ Before returning to work, complete pre-return checks and assessments of kitchen systems to ensure a healthy and safe environment. ✓ Minimize sharing of kitchen equipment between staff (e.g. knives, pots, rags/towels), where possible. 	<ul style="list-style-type: none"> ✓ Wherever possible, increase ventilation of outdoor air (e.g. opening windows and doors) while maintaining safety precautions. ✓ Discourage food preparation employees from changing/entering each others' work stations during shifts, unless they are appropriately cleaned/disinfected. ✓ Provide guests with a single use, paper, disposable menus and/or display menus on white boards/chalk boards/televisions/projectors. ✓ Encourage customers to view menus online (e.g. on their own smartphone or electronic device), where possible. ✓ Make hand sanitizer available throughout high-tough areas (e.g. outside restrooms), and place it in convenient locations, such as at entrances, exits, and cashiers. Install touch-free hand sanitizer, where possible.

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	Mandatory	Recommended Best Practices
Hygiene and Cleaning (cont'd)	<ul style="list-style-type: none"> ✓ Provide cleaning and disinfection of exposed areas in the event of an individual is confirmed to have COVID-19, with such cleaning and disinfection to include, at a minimum, all heavy transit areas and high-touch surfaces . ✓ Before returning to work, complete pre-return checks and assessments of kitchen systems to ensure a healthy and safe environment. ✓ Prohibit the use of devices (e.g. buzzers) to provide alerts to customers that seating or an order is available, unless such devices are thoroughly cleaned and disinfected between each use. ✓ For take-out/delivery: <ul style="list-style-type: none"> • Provide hand hygiene stations for customers waiting for food and/or drinks. • Ensure staff wash hands with soap/water or use hand sanitizer; if staff use gloves, regularly replace them. • If pick-up/delivery is indoors, ensure windows/doors are opened to allow for ventilation. ✓ Ensure all condiments provided directly to customers are in single-use disposable containers or reusable containers that are regularly cleaned/disinfected. ✓ If non-disposable menus are used, clean and disinfect the menus between each party's use. ✓ Use pre-packaged silverware or pre-rolled silverware. Silverware must be pre-rolled while wearing masks and gloves. 	



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	Mandatory	Recommended Best Practices
Communication	<ul style="list-style-type: none"> ✓ Affirm you have reviewed and understand the state-issued industry guidelines, and that you will implement them. ✓ Post signage to remind employees and patrons to adhere to proper hygiene, social distancing rules, appropriate use of PPE, and cleaning and disinfection protocols. ✓ Immediately notify the state and local health department if a worker was in close contact with others and tests positive for COVID-19. ✓ Cooperate with contact tracing efforts, including notification of potential contacts in the workplace, while maintaining confidentiality required by state and federal law and regulations. ✓ Conspicuously post completed safety plans on site. 	<ul style="list-style-type: none"> ✓ Use audio announcements, text messages or notices on screens to communicate with customers waiting an order/seating. ✓ Establish a communications plan for employees, vendors, and customers that includes a consistent means to provide updated information.
Screening	<ul style="list-style-type: none"> ✓ Employees who are sick should stay home or return to home, if they become ill at work. ✓ Implement mandatory daily health screening practices of their employees and, where practicable, vendors, but such screening shall not be mandated for customers and delivery personnel (e.g. questionnaire, temperature check) for employees, and asking about (1) COVID-19 symptoms in past 14 days, (2) positive COVID-19 test in past 14 days, and/or (3) close contact with confirmed or suspected COVID-19 case in past 14 days. ✓ Refer to DOH guidance regarding protocols and policies for employees seeking to return to work after a suspected or confirmed case of COVID-19 or after the employee had close or proximate contact with a person with COVID-19. ✓ Establishments cannot mandate that customers complete a health screen or provide contact information. 	<ul style="list-style-type: none"> ✓ Prevent employees from intermingling in close or proximate contact with each other prior to completion of the screening (e.g. perform screening remotely). ✓ Daily temperature checks may be conducted per Equal Employment Opportunity Commission or DOH guidelines. ✓ Maintain a log of every person, including workers and vendors, who may have close or proximate contact with other individuals at the work site or area, such that all contacts may be identified, traced and notified in the event a worker is diagnosed with COVID-19; excluding customers and deliveries performed with appropriate PPE or through contactless means. ✓ Provide an option for customers to provide contact information so they can be logged and contacted for contact tracing.

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	Mandatory	Recommended Best Practices
Screening (cont'd)	<ul style="list-style-type: none"> ✓ Screeners should be trained by employer-identified individuals familiar with CDC, DOH, and OSHA protocols and wear appropriate PPE, including at a minimum, a face covering. ✓ Identify a point-of-contact as the party for workers to inform if they later are experiencing COVID-19-related symptoms, as noted in the questionnaire. 	



INTERIM GUIDANCE FOR OUTDOOR AND TAKE-OUT/DELIVERY FOOD SERVICES DURING THE COVID-19 PUBLIC HEALTH EMERGENCY

When you have read this document, you can affirm at the bottom.

As of June 3, 2020

Purpose

This Interim Guidance for Outdoor and Take-Out/Delivery Food Services during the COVID-19 Public Health Emergency (“Interim COVID-19 Guidance for Outdoor and Take-Out/Delivery Food Services”) was created to provide owners/operators of outdoor and take-out/delivery food services sites and their employees and contractors with precautions to help protect against the spread of COVID-19 as outdoor and take-out/delivery food services sites reopen.

This guidance applies to all restaurants and food services establishments, including food trucks, and other food concessions. In regions that have not yet reached Phase 1 or are in Phase 1, such establishments may only operate by take-out and delivery. In regions that have reached Phase 2, such establishments may open outdoor spaces with seating for customers (i.e. dining and bar spaces indoors cannot open to customers), provided customers can be seated at tables that are appropriately distanced. Furthermore, restaurants with outdoor bar seating can open the area, provided customers can be distanced appropriately. Consumption of any dine-in food and/or beverage must occur at tables or bar tops in these outdoor spaces.

These guidelines are minimum requirements only and any employer is free to provide additional precautions or increased restrictions. These guidelines are based on the best-known public health practices at the time of Phase 2 of the State’s reopening, and the documentation upon which these guidelines are based can and does change frequently. The Responsible Parties – as defined below – are accountable for adhering to all local, state and federal requirements relative to outdoor and take-out/delivery food services. The Responsible Parties are also accountable for staying current with any updates to these requirements, as well as incorporating same into any outdoor and take-out/delivery food service operations and/or Site Safety Plan.

The Centers of Disease Control and Prevention, U.S. Food and Drug Administration, and United States Department of Labor’s Occupational Safety and Health Administration are not aware of any reports that suggest that COVID19 can be transmitted through food. Therefore, adherence to NYS Sanitary Codes for food service establishments along with additional requirements identified as part of these guidelines are expected to be sufficiently protective against COVID-19.

Background

On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order 202, declaring a state of emergency in response to COVID-19. Community transmission of COVID-19 has occurred throughout New York. To minimize further spread, social distancing of at least six feet must be maintained between individuals, where possible.

On March 16, 2020, Governor Cuomo issued [Executive Order 202.3](#), restricting all on-premises consumption of food and beverage at eating and drinking establishments statewide.

On March 20, 2020, Governor Cuomo issued [Executive Order 202.6](#), directing all non-essential businesses to close in-office personnel functions. Essential businesses, as defined by Empire State Development Corporation (ESD) [guidance](#), were not subject to the in-person restriction, but were, however, directed to comply with the guidance and directives for maintaining a clean and safe work environment issued by the New York State Department of Health (DOH), and were strongly urged to maintain social distancing measures to the extent possible.

On April 12, 2020, Governor Cuomo issued [Executive Order 202.16](#), directing essential businesses to provide employees, who are present in the workplace, with a face covering, at no-cost, that must be used when in direct contact with customers or members of the public during the course of their work. On April 15, 2020, Governor Cuomo issued [Executive Order 202.17](#), directing that any individual who is over age two and able to medically tolerate a face-covering must cover their nose and mouth with a mask or cloth face-covering when in a public place and unable to maintain, or when not maintaining, social distance. On April 16, 2020, Governor Cuomo issued [Executive Order 202.18](#), directing that everyone using public or private transportation carriers or other for-hire vehicles, who is over age two and able to medically tolerate a face covering, must wear a mask or face covering over the nose and mouth during any such trip. It also directed any operators or drivers of public or private transport to wear a face covering or mask which covers the nose and mouth while there are any passengers in such a vehicle. On May 29, 2020, Governor Cuomo issued [Executive Order 202.34](#), authorizing business operators/owners with the discretion to deny admittance to individuals who fail to comply with the face covering or mask requirements.

On April 26, 2020, Governor Cuomo [announced](#) a phased approach to reopen industries and businesses in New York in phases based upon a data-driven, regional analysis. On May 4, 2020, the Governor [provided](#) that the regional analysis would consider several public health factors, including new COVID-19 infections, as well as health care system, diagnostic testing, and contact tracing capacity. On May 11, 2020, Governor Cuomo [announced](#) that the first phase of reopening would begin on May 15, 2020 in several regions of New York, based upon available regional metrics and indicators.

In addition to the following standards, both essential and non-essential businesses must continue to comply with the guidance and directives for maintaining clean and safe work environments issued by the DOH.

Please note that where guidance in this document differs from other guidance documents issued by New York State, the more recent guidance shall apply.

Standards for Responsible Outdoor and Take-out/Delivery Food Services in New York State

No outdoor or take-out/delivery food service operation can occur without meeting the following minimum State standards, as well as applicable federal requirements, including but not limited to such minimum standards of the Americans with Disabilities Act (ADA), Centers for Disease Control and Prevention (CDC), Environmental Protection Agency (EPA), and United States Department of Labor's Occupational Safety and Health Administration (OSHA).

The State standards contained within this guidance apply to all outdoor and take-out/delivery food services in operation during the COVID-19 public health emergency until rescinded or amended by the State. The operator of the outdoor or take-out/delivery food service site, or another party as may be designated by the operator (in either case, "the Responsible Parties"), shall be responsible for meeting these standards.

The following guidance is organized around three distinct categories: people, places, and processes.

I. PEOPLE

A. Physical Distancing

- For the purposes of this guidance, “outdoor space” is defined as an open air space without a fixed roof (besides a temporary or seasonal awning or cover). Within such outdoor space, all tables with seats must be at least six feet from any other table, seat, patron, or pedestrian thoroughfare or corridor.
- Responsible Parties must ensure an indoor capacity to accommodate patrons who may need to enter or exit through the indoor space to access the outdoor seating, restroom(s), or payment location and allow such access and egress in a socially distanced manner.
 - Responsible Parties should ensure that a distance of at least six feet is maintained among workers at all times, unless the core activity requires a shorter distance (e.g. cooking, cleaning, clearing tables, maintenance). Regardless of physical distance, Responsible Parties must ensure all employees wear an acceptable face covering at all times. Patrons must also wear face coverings at all times, except while seated; provided, however, that the patron is over the age of two and able to medically tolerate such covering.
 - Acceptable face coverings for COVID-19 include but are not limited to cloth-based face coverings and disposable masks that cover both the mouth and nose.
 - However, cloth, disposable, or other homemade face coverings are not acceptable face coverings for workplace activities that typically require a higher degree of protection for personal protective equipment (PPE) due to the nature of the work. For those activities, N95 respirators or PPE used under existing industry standards should continue to be used, as is defined in accordance with [OSHA guidelines](#).
- Responsible Parties must ensure that outdoor capacity is limited to the number of tables that can be safely and appropriately arranged such that each table is a minimum of six feet away from another.
- Responsible Parties must ensure that outdoor tables with seating for customers are separated by a minimum of six feet in all directions. Wherever distancing is not feasible between tables, Responsible Parties must enact physical barriers between such tables. The physical barriers must be at least five feet in height and must not block emergency and/or fire exits.
 - Responsible Parties may allow customers to sit at outdoor bar areas, provided a distance of at least six feet can be maintained between parties (i.e. groups of patrons).
 - Responsible Parties must ensure that bar area staff keep a distance of at least six feet between each other and/or customers, when possible.
- Responsible Parties may seat as many individuals at a single table as the table allows, with a maximum of 10 individuals per table.
 - Individuals seated at a table must be members of the same party but may be from different households.
 - Communal tables in which multiple parties are seated at the same large table are only permitted if a distance of at least six feet can be maintained between the parties.

- Responsible Parties must ensure indoor dining and seating areas are closed to customers and are not used.
 - Responsible Parties may offer restroom access to customers, provided that social distancing is promoted within and while waiting for restrooms.
- Responsible Parties may modify the use and/or restrict the number of work stations and employee seating areas, so that employees are at least six feet apart in all directions (e.g. side-to-side and when facing one another) and are not sharing areas without cleaning and disinfection between use. When distancing is not feasible (e.g. pick-up stations, cash registers), Responsible Parties may enact physical barriers (e.g. plastic shielding walls) in areas where they would not affect air flow, heating, cooling, or ventilation) and must not block emergency and/or fire exits.
 - If used, physical barriers should be put in place in accordance with OSHA guidelines.
 - Physical barrier options may include: strip curtains, plexiglass or similar materials, or other impermeable dividers or partitions.
- Responsible Parties should prohibit the use of small spaces (e.g. freezers or storage rooms) by more than one individual at a time, unless all employees in such space at the same time are wearing acceptable face coverings. However, even with face coverings in use, occupancy must never exceed 50% of the maximum capacity of the space, unless it is designed for use by a single occupant. Responsible Parties should increase ventilation with outdoor air to the greatest extent possible (e.g. opening windows and doors to kitchen), while maintaining safety protocols.
- Responsible Parties should put in place measures to reduce bi-directional foot traffic using tape or signs with arrows in narrow aisles, hallways, or spaces, and post signage and distance markers denoting spaces of six feet in all commonly used areas and any areas in which lines are commonly formed or people may congregate (e.g. clock in/out stations, health screening stations, breakrooms).
 - Responsible Parties must clearly signal six foot spacing in:
 - Any lines for customers waiting to order, pick up food, be seated, or use the restroom (e.g. by using tape); and
 - Any pick-up or payment location (e.g. counter, table, register).
- Responsible Parties must designate entrances/exits for customers and separate entrances/exits for employees, where possible.
- Responsible Parties should encourage customers to wait in their car or outside at an appropriate social distance until food is ready to be picked up or they are ready to be seated.
- Responsible Parties should encourage customers to place remote orders online or by phone.
- Where possible, Responsible Parties should allow for contactless order, payment, delivery, and pick-up and/or implement curbside pick-up.
 - When contactless payment is not feasible, Responsible Parties should minimize the use of billfolds and present paper receipts only.
- Responsible Parties should consider allowing customers that will be seated to order ahead of time to limit the amount of time spent in the establishment.
- Responsible Parties must post signs throughout the site, consistent with DOH COVID-19 signage. Responsible Parties can develop their own customized signage specific to their workplace or setting,

provided that such signage is consistent with the Department's signage. Signage should be used to remind employees and patrons to:

- Cover their nose and mouth with a mask or cloth face-covering.
- Properly store and, when necessary, discard PPE.
- Adhere to physical distancing instructions.
- Report symptoms of or exposure to COVID-19, and how they should do so.
- Follow hand hygiene and cleaning and disinfection guidelines.
- Follow appropriate respiratory hygiene and cough etiquette.

B. Gatherings in Enclosed Spaces

- Responsible Parties must limit in-person gatherings (e.g. staff meetings) to the greatest extent possible and use other methods such as video or teleconferencing whenever possible, per CDC guidance "[Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#)". When videoconferencing or teleconferencing is not possible, Responsible Parties should hold meetings in open, well-ventilated spaces and ensure that individuals maintain six feet of social distance between one another (e.g. if there are chairs, leave space between chairs, have employees sit in alternating chairs).
- Responsible Parties should consider closing non-essential amenities and communal areas that promote gathering or are high-touch (e.g. vending machines, communal coffee machines).
- Responsible Parties must put in place practices for adequate social distancing in small areas, such as restrooms and breakrooms, and should develop signage and systems (e.g. flagging when occupied) to restrict occupancy when social distancing cannot be maintained in such areas.
 - Responsible Parties operating food trucks should implement such practices to the extent practicable.
- Responsible Parties should stagger schedules for their employees to observe social distancing (i.e. six feet of space) for any gathering (e.g. breaks, meals, shift starts/stops).

C. Workplace Activity

- Responsible Parties must take measures to reduce interpersonal contact and congregation, through methods such as:
 - Limiting in-person presence to only those staff who are necessary;
 - adjusting workplace hours;
 - reducing on-site workforce to accommodate social distancing guidelines;
 - shifting design (e.g. A/B teams, staggered arrival/departure times);
 - prioritizing tasks that allow for social distancing over those that do not;
 - avoiding multiple crews and/or teams working in one area by staggering scheduled tasks and using signs to indicate occupied areas; and/or
 - segmenting and batching activities, where possible, so individuals can adhere to social distancing and reduce the number of hands touching equipment at the same time.

- Where practicable, Responsible Parties should discourage food preparation employees from changing or entering others' work stations during shifts, unless they are appropriately cleaned and/or disinfected, as appropriate.
- Responsible Parties should designate discrete work zones for servers, where possible. Servers should serve specific zones in the restaurant to minimize overlap.
- Responsible Parties should encourage customer reservations for seating, where practicable, to reduce the congregation of patrons waiting to be seated and served.
 - Responsible Parties must not provide customers with devices (e.g. buzzers) to provide alerts that seating or an order is available, unless such devices are thoroughly cleaned and disinfected between each use.
 - Responsible Parties are encouraged to use audio announcements, text messages, or notices on screens to communicate with customers awaiting an order or seating.

D. Movement and Commerce

- Responsible Parties must establish designated areas for vendor pickups and/or deliveries, limiting contact to the extent possible.
- Responsible Parties should limit on-site interactions (e.g. designate an egress for workers leaving their shifts and a separate ingress for workers starting their shifts) and movements (e.g. employees should remain near their workstations as often as possible).
- For vendors that need to come on premises, Responsible Parties should ensure a one-at-a-time process, in which only one vendor delivers a product at a time, employees clean and disinfect high touch surfaces, and the next vendor can enter the premises.
- Where practicable, Responsible Parties should limit the numbers of entrances in order to (1) manage the flow of traffic into the building and (2) facilitate health screenings, as described below while remaining in compliance with fire safety and other applicable regulations.
- Develop a plan for people to maintain six feet of social distance while queuing inside or outside of the establishment for screening, as applicable.

II. PLACES

A. Kitchen Area

- Before returning to work, Responsible Parties must complete pre-return checks and assessments of kitchen systems to ensure a healthy and safe environment.
- Responsible Parties must ensure kitchen staff wear face coverings at all times.
- Responsible Parties should reconfigure kitchens to maintain six feet distance, to the extent possible.
 - Responsible Parties should stagger shifts, if possible, to do work (e.g. food prep) ahead of time.
- To the extent possible, Responsible Parties should ensure kitchen staff are dedicated to one station throughout their shift (e.g. salad or grill or desserts).

- Where applicable, Responsible Parties should establish markers in work stations and areas with tape on the floor to signal six feet distance in all directions.
- Responsible Parties should encourage kitchen staff to place items on the counter for the next person to pick up rather than pass items from hands to hands.
- Responsible Parties must minimize sharing of kitchen equipment between staff (e.g. knives, pots, rags/towels), where possible.

B. Protective Equipment

- In addition to the necessary PPE as required for certain workplace activities, Responsible Parties must procure, fashion, or otherwise obtain acceptable face coverings and provide such coverings to their employees while at work at no cost to the employee. Responsible Parties should have an adequate supply of face coverings, masks and other required PPE on hand should an employee need a replacement or should a vendor be in need. Acceptable face coverings include, but are not limited to, cloth (e.g. homemade sewn, quick cut, bandana), surgical masks, N95 respirators, and face shields.
- Face coverings must be cleaned or replaced after use and may not be shared. Please consult the CDC [guidance](#) for additional information on cloth face coverings and other types of PPE, as well as instructions on use and cleaning.
 - Note that cloth face coverings or disposable masks shall not be considered acceptable face coverings for workplace activities that impose a higher degree of protection for face covering requirements. For example, if N95 respirators are traditionally required for specific food service activities, a cloth or homemade mask would not suffice. Responsible Parties must adhere to OSHA standards for such safety equipment.
- Responsible Parties must allow their employees to use their own acceptable face coverings but cannot require their employees to supply their own face coverings. Further, this guidance shall not prevent employees from wearing their personally owned additional protective coverings (e.g. surgical masks, N95 respirators, or face shields), or if the Responsible Parties otherwise require employees to wear more protective PPE due to the nature of their work. Employers should comply with all applicable OSHA standards.
- Responsible Parties must ensure that all staff wear face coverings at all times. Responsible Parties must ensure staff practice hand hygiene and use bare hand barriers consistent with State and Local Sanitary Codes.
 - If employees wear gloves during non-food preparation activities, Responsible Parties must:
 - Ensure employees replace gloves frequently; and
 - Encourage employees to change gloves when switching tasks (e.g. serving customers to pre-rolling silverware).
 - If employees do not wear gloves, Responsible Parties must ensure employees frequently wash and/or sanitize their hands.
 - Responsible Parties must ensure that employees who are bussing tables wash their hands with soap and water and, if they are wearing gloves, replace their gloves, before and after cleaning and disinfecting tables.

- Responsible Parties must only permit customer entry into the establishment if they wear an acceptable face covering; provided, however, that the customer is over the age of two and able to medically tolerate such covering.
 - Responsible Parties should require customers to wear face coverings when not seated at a table (e.g. when waiting for pickup, placing order at counter or window, walking to/from table, walking to/from restroom).
 - Once seated, Responsible Parties should encourage, but not require customers to wear face coverings when not eating and/or drinking.
- Responsible Parties must put in place measures to limit the sharing of objects, such as kitchen tools, pens and pads, as well as the touching of shared surfaces, such as doorknobs, keypads, and touchscreens; or, require workers to wear gloves (trade-appropriate or medical) when in contact with shared objects or frequently touched surfaces; or, require workers to wash their hands before and after contact.
- Responsible Parties must train their employees on how to adequately put on, take off, clean (as applicable), and discard PPE, including but not limited to, appropriate face coverings.

B. Hygiene, Cleaning, and Disinfection

- Responsible Parties must ensure adherence to hygiene and cleaning and disinfection requirements as advised by the CDC and DOH, including "[Guidance for Cleaning and Disinfection of Public and Private Facilities for COVID-19](#)," and the "[STOP THE SPREAD](#)" poster, as applicable. Responsible Parties must maintain logs that include the date, time, and scope of cleaning and disinfection.
- Responsible Parties must provide and maintain hand hygiene stations on site, as follows:
 - For handwashing: soap, running warm water, disposable paper towels, and a lined garbage can.
 - For hand sanitizing: an alcohol-based hand sanitizer containing at least 60% alcohol for areas where handwashing facilities may not be available or practical.
 - Responsible Parties should make hand sanitizer available throughout high touch areas (e.g. outside restrooms). It should be placed in convenient locations, such as at entrances, exits, cashiers. Touch-free hand sanitizer dispensers should be installed where possible.
 - In food trucks and concessions where Responsible Parties are unable to provide running water stations, employees should wear gloves or regularly use hand sanitizing and continue to comply with federal, state, and local food handling and hygiene requirements.
- Responsible Parties should place signage near hand sanitizer stations indicating that visibly soiled hands should be washed with soap and water; hand sanitizer is not effective on visibly soiled hands.
- Place receptacles around the site for disposal of soiled items, including PPE.
- For take-out/delivery, Responsible Parties must:
 - Provide hand hygiene stations for customers waiting for food and/or drinks;
 - Ensure staff wash hands with soap and water or use hand sanitizer, and, if staff use gloves, regularly replace them; and
 - Ensure, if pick-up/delivery is in indoors/enclosed space, windows and/or doors are opened to allow for ventilation.

- Responsible Parties must provide appropriate cleaning and disinfection supplies for shared and frequently touched surfaces and encourage their employees to use these supplies following manufacturer’s instructions for use before and after use of these surfaces, followed by hand hygiene.
- Responsible Parties must conduct regular cleaning and disinfection of the site and more frequent cleaning and disinfection for high risk areas used by many individuals and for frequently touched surfaces. Cleaning and disinfection must be rigorous and ongoing and should occur at least after each shift, daily, or more frequently as needed. Please refer to DOH’s “Interim Guidance for Cleaning and Disinfection of Public and Private Facilities for COVID-19” for detailed instructions on how to clean and disinfect facilities.
 - Responsible Parties must ensure regular cleaning and disinfection of restrooms. Restrooms should be cleaned and disinfected more often depending on frequency of use.
 - Responsible Parties must ensure distancing rules are adhered to by using signage, occupied markers, or other methods to reduce restroom capacity where feasible.
 - Responsible Parties must ensure that equipment and tools are regularly cleaned and disinfected using registered disinfectants, including at least as often as employees change workstations or move to a new set of tools. Refer to the Department of Environmental Conservation (DEC) list of products registered in New York State and identified by the EPA as effective against COVID-19.
 - If cleaning or disinfection products or the act of cleaning and disinfecting causes safety hazards or degrades the material or machinery, Responsible Parties must put in place hand hygiene stations for between use and/or supply disposable gloves and/or limitations on the number of employees using such machinery.
 - Responsible Parties must provide for the cleaning and disinfection of exposed areas in the event an individual is confirmed to have COVID-19, with such cleaning and disinfection to include, at a minimum, all heavy transit areas and high-touch surfaces (e.g. shared tools, equipment, machines, work stations, keypads, telephones).
- CDC guidelines on “Cleaning and Disinfecting Your Facility” if someone is suspected or confirmed to have COVID-19 are as follows:
 - Close off areas used by the person suspected or confirmed to have COVID-19.
 - Affected areas need to be close off and cleaned and disinfected.
 - If an employee of a food truck is suspected or confirmed to have COVID-19, the food truck must be closed until cleaned and disinfected.
 - Open outside doors and windows to increase air circulation in the area.
 - Wait 24 hours before you clean and disinfect. If 24 hours is not feasible, wait as long as possible.
 - Clean and disinfect all areas used by the person suspected or confirmed to have COVID-19, such as offices, bathrooms, common areas, and shared equipment.
 - Once the area has been appropriately cleaned and disinfected, it can be reopened for use.
 - Workers without close or proximate contact with the person who is suspected or confirmed to have COVID-19 can return to the work area immediately after cleaning and disinfection.
 - Refer to DOH’s “Interim Guidance for Public and Private Employees Returning to Work Following COVID-19 Infection or Exposure” for information on “close or proximate” contacts.

- If more than seven days have passed since the person who is suspected or confirmed to have COVID-19 visited or used the facility, additional cleaning and disinfection is not necessary, but routine cleaning and disinfection should continue.
- Responsible Parties must prohibit employees sharing food and beverages among themselves, encourage bringing lunch from home, and reserve adequate space for employees to observe social distancing while eating meals.
- Responsible Parties must ensure that all condiments provided directly to customers be in single-use disposable containers or reusable containers that are regularly cleaned and disinfected, ideally between each party's use.
- Responsible Parties should ensure that guests are provided with single use, paper, disposable menus and/or that menus are displayed on white boards/chalk boards/televisions/projectors, where possible. If non-disposable menus are used, Responsible Parties must clean and disinfect the menus between each party's use.
 - Responsible Parties should encourage customers to view menus online (e.g. on their own smartphone or electronic device) where possible.
- Responsible Parties must use pre-packaged silverware or pre-rolled silverware. Silverware must be pre-rolled while wearing masks and gloves.
- Responsible Parties must not offer or otherwise provide unwrapped straws and toothpicks.

C. Phased Reopening

- Responsible Parties are encouraged to phase-in reopening activities so as to allow for operational issues to be resolved before production or work activities return to normal levels. Responsible Parties should consider limiting the number of employees, hours, and number of customers available to be served when first reopening so as to provide operations with the ability to adjust to the changes.

D. Communications Plan

- Responsible Parties must affirm that they have reviewed and understand the state-issued industry guidelines, and that they will implement them.
- Responsible Parties should develop a communications plan for employees, vendors, and customers that includes applicable instructions, training, signage, and a consistent means to provide employees with information. Responsible Parties may consider developing webpages, text and email groups, and social media.

III. PROCESSES

A. Screening and Testing

- Responsible Parties must implement mandatory daily health screening practices of their employees and, where practicable, vendors, but such screening shall not be mandated for customers and delivery personnel.

- Screening practices may be performed remotely (e.g. by telephone or electronic survey), before the employee reports to the site, to the extent possible; or may be performed on site.
- Screening should be coordinated to prevent employees from intermingling in close or proximate contact with each other prior to completion of the screening.
- At a minimum, screening should be required of all employees and vendors completed using a questionnaire that determines whether the employee or vendor has:
 - (a) knowingly been in close or proximate contact in the past 14 days with anyone who has tested positive for COVID-19 or who has or had symptoms of COVID-19;
 - (b) tested positive for COVID-19 in the past 14 days; and/or
 - (c) has experienced any symptoms of COVID-19 in the past 14 days.
- Responsible Parties cannot mandate that customers complete a health screen or provide contact information but may encourage customers to do so. Responsible Parties may provide an option for customers to provide contact information so they can be logged and contacted for contact tracing, if necessary.
- Refer to CDC guidance on "[Symptoms of Coronavirus](#)" for the most up to date information on symptoms associated with COVID-19.
- Responsible Parties should require employees to immediately disclose if and when their responses to any of the aforementioned questions changes, such as if they begin to experience symptoms, including during or outside of work hours.
- In addition to the screening questionnaire, daily temperature checks may also be conducted per U.S. Equal Employment Opportunity Commission or DOH guidelines. Responsible Parties are prohibited from keeping records of employee health data (e.g. temperature data).
- Responsible Parties must ensure that any personnel performing screening activities, including temperature checks, are appropriately protected from exposure to potentially infectious workers or vendors entering the site. Personnel performing screening activities should be trained by employer-identified individuals who are familiar with CDC, DOH, and OSHA protocols.
- Screeners should be provided and use PPE, including at a minimum, a face mask, and may include gloves, a gown, and/or a face shield.
- An employee or vendor who screens positive for COVID-19 symptoms should not be allowed to enter the premises and should be sent home with instructions to contact their healthcare provider for assessment and testing. Responsible Parties must immediately notify the state and local health department where the site is located about any positive case. Responsible Parties should provide the employee with information on healthcare and testing resources.
- Responsible Parties must review all employee and vendor responses collected by the screening process on a daily basis and maintain a record of such review. Responsible Parties must also identify a contact as the party for workers to inform if they later are experiencing COVID-19-related symptoms, as noted in the questionnaire.
- Responsible Parties must designate a site safety monitor whose responsibilities include continuous compliance with all aspects of the site safety plan.

- To the extent possible, Responsible Parties should maintain a log of every person, including workers and vendors, who may have close or proximate contact with other individuals at the work site or area; excluding customers and deliveries that are performed with appropriate PPE or through contactless means. The log should contain contact information, such that all contacts may be identified, traced and notified in the event an employee is diagnosed with COVID-19. Responsible Parties must cooperate with state and local health department contact tracing efforts.
 - Responsible Parties cannot mandate that customers complete a health screen or provide contact information but may encourage customers to do so.
- Responsible Parties should refer to DOH's "Interim Guidance for Public and Private Employees Returning to Work Following COVID-19 Infection or Exposure" regarding protocols and policies for employees seeking to return to work after a suspected or confirmed case of COVID-19 or after the employee had close or proximate contact with a person with COVID-19.

B. Tracing and Tracking

- Responsible Parties must notify the state and local health department immediately upon being informed of any positive COVID-19 test result by a worker at their site.
- Responsible Parties must designate a site safety monitor whose responsibilities include continuous compliance with all aspects of the site safety plan.
- In the case of an employee, vendor, or customer who interacted at the business testing positive, the Responsible Parties must cooperate with the state and local health department to trace all contacts in the workplace, and the health department where the site is located must be notified of all employees logged and vendors/customers (as applicable) who entered the food service location dating back 48 hours before the individual first experienced COVID-19 symptoms or tested positive, whichever is earlier. Confidentiality must be maintained as required by federal and state law and regulations.
- Local health departments may, under their legal authority, implement monitoring and movement restrictions of infected or exposed persons including home isolation or quarantine.
- Individuals who are alerted that they have come into close or proximate contact with a person with COVID-19, and have been alerted via tracing, tracking or other mechanism, are required to self-report to their employer at the time of alert and shall follow the protocol described and referenced above.

IV. EMPLOYER PLANS

Responsible Parties must conspicuously post completed safety plans on site. The State has made available a business reopening safety plan template to guide business owners and operators in developing plans to protect against the spread of COVID-19.

Additional safety information, guidelines, and resources are available at:

New York State Department of Health Novel Coronavirus (COVID-19) Website
<https://coronavirus.health.ny.gov/>

Centers for Disease Control and Prevention Coronavirus (COVID-19) Website
<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

Occupational Safety and Health Administration COVID-19 Website
<https://www.osha.gov/SLTC/covid-19/>

At the link below, affirm that you have read and understand your obligation to operate in accordance with this guidance:

<https://forms.ny.gov/s3/ny-forward-affirmation>



NY FORWARD SAFETY PLAN TEMPLATE

Each business or entity, including those that have been designated as essential under Empire State Development's Essential Business Guidance, must develop a written Safety Plan outlining how its workplace will prevent the spread of COVID-19. A business may fill out this template to fulfill the requirement, or may develop its own Safety Plan. **This plan does not need to be submitted to a state agency for approval** but must be retained on the premises of the business and must be made available to the New York State Department of Health (DOH) or local health or safety authorities in the event of an inspection.

Business owners should refer to the State's industry-specific guidance for more information on how to safely operate. For a list of regions and sectors that are authorized to re-open, as well as detailed guidance for each sector, please visit: [forward.ny.gov](https://www.forward.ny.gov). If your industry is not included in the posted guidance but your business has been operating as essential, please refer to ESD's [Essential Business Guidance](#) and adhere to the guidelines within this Safety Plan. Please continue to regularly check the New York Forward site for guidance that is applicable to your business or certain parts of your business functions, and consult the state and federal resources listed below.

COVID-19 Reopening Safety Plan

Name of Business:

Industry:

Address:

Contact Information:

Owner/Manager of Business:

Human Resources Representative and Contact Information, if applicable:

I. PEOPLE

A. Physical Distancing. To ensure employees comply with physical distancing requirements, you agree that you will do the following:

- Ensure 6 ft. distance between personnel, unless safety or core function of the work activity requires a shorter distance. Any time personnel are less than 6 ft. apart from one another, personnel must wear acceptable face coverings.
- Tightly confined spaces will be occupied by only one individual at a time, unless all occupants are wearing face coverings. If occupied by more than one person, will keep occupancy under 50% of maximum capacity.

- Post social distancing markers using tape or signs that denote 6 ft. of spacing in commonly used and other applicable areas on the site (e.g. clock in/out stations, health screening stations)
- Limit in-person gatherings as much as possible and use tele- or video-conferencing whenever possible. Essential in-person gatherings (e.g. meetings) should be held in open, well-ventilated spaces with appropriate social distancing among participants.
- Establish designated areas for pick-ups and deliveries, limiting contact to the extent possible.

List common situations that may not allow for 6 ft. of distance between individuals. What measures will you implement to ensure the safety of your employees in such situations?

How you will manage engagement with customers and visitors on these requirements (as applicable)?

How you will manage industry-specific physical social distancing (e.g., shift changes, lunch breaks) (as applicable)?

II. PLACES

A. Protective Equipment. To ensure employees comply with protective equipment requirements, you agree that you will do the following:

- Employers must provide employees with an acceptable face covering at no-cost to the employee and have an adequate supply of coverings in case of replacement.

What quantity of face coverings – and any other PPE – will you need to procure to ensure that you always have a sufficient supply on hand for employees and visitors? How will you procure these supplies?

- Face coverings must be cleaned or replaced after use or when damaged or soiled, may not be shared, and should be properly stored or discarded.

What policy will you implement to ensure that PPE is appropriately cleaned, stored, and/or discarded?

- Limit the sharing of objects and discourage touching of shared surfaces; or, when in contact with shared objects or frequently touched areas, wear gloves (trade-appropriate or medical); or, sanitize or wash hands before and after contact.

List common objects that are likely to be shared between employees. What measures will you implement to ensure the safety of your employees when using these objects?

B. Hygiene and Cleaning. To ensure employees comply with hygiene and cleaning requirements, you agree that you will do the following:

- Adhere to hygiene and sanitation requirements from the [Centers for Disease Control and Prevention](#) (CDC) and [Department of Health](#) (DOH) and maintain cleaning logs on site that document date, time, and scope of cleaning.

Who will be responsible for maintaining a cleaning log? Where will the log be kept?

- Provide and maintain hand hygiene stations for personnel, including handwashing with soap, water, and paper towels, or an alcohol-based hand sanitizer containing 60% or more alcohol for areas where handwashing is not feasible.

Where on the work location will you provide employees with access to the appropriate hand hygiene and/or sanitizing products and how will you promote good hand hygiene?

- Conduct regular cleaning and disinfection at least after every shift, daily, or more frequently as needed, and frequent cleaning and disinfection of shared objects (e.g. tools, machinery) and surfaces, as well as high transit areas, such as restrooms and common areas, must be completed.

What policies will you implement to ensure regular cleaning and disinfection of your worksite and any shared objects or materials, using [products](#) identified as effective against COVID-19?

C. Communication. To ensure the business and its employees comply with communication requirements, you agree that you will do the following:

- Post signage throughout the site to remind personnel to adhere to proper hygiene, social distancing rules, appropriate use of PPE, and cleaning and disinfecting protocols.
- Establish a communication plan for employees, visitors, and customers with a consistent means to provide updated information.
- Maintain a continuous log of every person, including workers and visitors, who may have close contact with other individuals at the work site or area; excluding deliveries that are performed with appropriate PPE or through contactless means; excluding customers, who may be encouraged to provide contact information to be logged but are not mandated to do so.

Which employee(s) will be in charge of maintaining a log of each person that enters the site (excluding customers and deliveries that are performed with appropriate PPE or through contactless means), and where will the log be kept?

- If a worker tests positive for COVID-19, employer must immediately notify state and local health departments and cooperate with contact tracing efforts, including notification of potential contacts, such as workers or visitors who had close contact with the individual, while maintaining confidentiality required by state and federal law and regulations.

If a worker tests positive for COVID-19, which employee(s) will be responsible for notifying state and local health departments?

III. PROCESS

A. Screening. To ensure the business and its employees comply with protective equipment requirements, you agree that you will do the following:

- Implement mandatory health screening assessment (e.g. questionnaire, temperature check) before employees begin work each day and for essential visitors, asking about (1) COVID-19 symptoms in past 14 days, (2) positive COVID-19 test in past 14 days, and/or (3) close contact with confirmed or suspected COVID-19 case in past 14 days. Assessment responses must be reviewed every day and such review must be documented.

What type(s) of daily health and screening practices will you implement? Will the screening be done before employee gets to work or on site? Who will be responsible for performing them, and how will those individuals be trained?

If screening onsite, how much PPE will be required for the responsible parties carrying out the screening practices? How will you supply this PPE?

B. Contact tracing and disinfection of contaminated areas. To ensure the business and its employees comply with contact tracing and disinfection requirements, you agree that you will do the following:

- Have a plan for cleaning, disinfection, and contact tracing in the event of a positive case.

In the case of an employee testing positive for COVID-19, how will you clean the applicable contaminated areas? What products identified as effective against COVID-19 will you need and how will you acquire them?

In the case of an employee testing positive for COVID-19, how will you trace close contacts in the workplace? How will you inform close contacts that they may have been exposed to COVID-19?

IV. OTHER

Please use this space to provide additional details about your business's Safety Plan, including anything to address specific industry guidance.

Staying up to date on industry-specific guidance:

To ensure that you stay up to date on the guidance that is being issued by the State, you will:

- Consult the NY Forward website at forward.ny.gov and applicable Executive Orders at governor.ny.gov/executiveorders on a periodic basis or whenever notified of the availability of new guidance.

STAY HOME.

STOP THE SPREAD.

SAVE LIVES.

State and Federal Resources for Businesses and Entities

As these resources are frequently updated, please stay current on state and federal guidance issued in response to COVID-19.

General Information

[New York State Department of Health \(DOH\) Novel Coronavirus \(COVID-19\) Website](#)

[Centers for Disease Control and Prevention \(CDC\) Coronavirus \(COVID-19\) Website](#)

[Occupational Safety and Health Administration \(OSHA\) COVID-19 Website](#)

Workplace Guidance

[CDC Guidance for Businesses and Employers to Plan, Prepare and Respond to Coronavirus Disease 2019](#)

[OSHA Guidance on Preparing Workplaces for COVID-19](#)

Personal Protective Equipment Guidance

[DOH Interim Guidance on Executive Order 202.16 Requiring Face Coverings for Public and Private Employees](#)

[OSHA Personal Protective Equipment](#)

Cleaning and Disinfecting Guidance

[New York State Department of Environmental Conservation \(DEC\) Registered Disinfectants of COVID-19](#)

[DOH Interim Guidance for Cleaning and Disinfection of Public and Private Facilities for COVID-19](#)

[CDC Cleaning and Disinfecting Facilities](#)

Screening and Testing Guidance

[DOH COVID-19 Testing](#)

[CDC COVID-19 Symptoms](#)

STAY HOME.

STOP THE SPREAD.

SAVE LIVES.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of SOUTHEAST

Local Law No. 5 of the year 2020

A local law amending Chapter 138 of the Town Code to impose a moratorium on enforcement of
(Insert Title)
certain provisions of the Zoning Code regarding Site Plan Approval and Chapter 54 by
adding a new section 54-12A entitled Temporary Permits for Outdoor Dining

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of SOUTHEAST as follows:

SECTION 1. TEMPORARY MORATORIUM ON ENFORCEMENT OF CERTAIN PROVISIONS OF CHAPTER 138 "ZONING"

Enforcement of Section 138-4, "Definitions" relating to the requirement that "temporary structures" as defined in the zoning code in place for more than one (1) month obtain site plan approval shall be suspended to allow temporary structures erected in connection with Temporary Outdoor Dining Permits authorized pursuant to Section 2 of this Local Law may remain in place so long as the temporary Outdoor Dining Permit is in effect.

Enforcement of Section 138-45 "Site plan approval" shall be suspended, in part, and only to the extent that it would permit the temporary establishment of an outdoor seating area for restaurant and related food uses during the COVID-19 pandemic, and while the New York State reopening plan and executive orders are in effect.

The foregoing moratorium on enforcement shall be expire the earlier of six (6) months from the effective date hereof; or upon the expiration of the Executive Orders issued by the New York State Governor relating to restrictions on indoor dining in restaurants and food service establishments.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2020 of the (County)(City)(Town)(Village) of SOUTHEAST was duly passed by the TOWN BOARD on June 4, 2020, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

SECTION 2. TEMPORARY PERMITS FOR OUTDOOR DINING

Chapter 54 of the Code of the Town of Southeast entitled "Building Construction and Fire Prevention" is hereby amended to add a new Section 54-12A as follows:

§54-12A. Temporary Permits for Outdoor Dining.

- A. Establishment. There is hereby established a Temporary Permit for Outdoor Dining to be administered by the Town Building Department. The purpose of the Temporary Permit is to allow fast casual restaurants, fast-food restaurants, bakeries, delicatessens, ice cream/yogurt parlors and similar types of retail establishments offering food or beverages for onsite consumption (hereinafter referred to collectively as a "food service establishment") in existence on the effective date hereof to establish a temporary outdoor seating area or expand or temporarily expand an outdoor seating area subject to an Outdoor Dining Permit issued by the Town of Southeast Building Inspector pursuant to the following regulations.
- B. Regulations.
- (1) Term. An Outdoor Dining Permit shall commence upon issuance by the Building Inspector and shall be for a term of no more than six (6) months or may expire earlier upon the lifting of any Executive Order of the Governor of the State of New York which restricts or prohibits indoor dining in establishments due to the continued Covid-19 Pandemic of 2020. Upon termination of Outdoor Dining Permit, all areas used and utilized for such outdoor dining activities shall be restored to the pre-existing conditions. Failure to comply with such removal and restoration requirements may subject the permittee to fines and penalties as set forth in this Chapter.
 - (2) Location. Eligible locations for outdoor dining and sidewalk cafes include existing parking lots, decks, patios, terraces, lawn, sidewalks, and gardens which are adjacent to or within a reasonable proximate distance from the food service establishment to allow for safe and efficient service to patrons from the food service establishment
 - (3) General operating rules.
 - i. No outdoor dining operation can occur without meeting the minimum State standards, as well as applicable federal requirements, including but not limited to such minimum standards of the Americans with Disabilities Act (ADA), Centers for Disease Control (CDC), Environmental Protection Agency (EPA), and the United States Department of Labor's Occupational Safety and Health Administration (OSHA). Outdoor Dining Permit holders shall be required to observe and meet all requirements of the Interim Guidance for Outdoor and Public Take-Out / Deliver Food Service During the Covid-19 Public Health Emergency dated as of June 3, 2020 issued by the New York State Department of Health, as the same may be amended from time to time.
 - ii. All outdoor dining operations must meet social distancing requirements and follow all applicable health guidelines and guidance as set forth by the CDC, New York State (including Executive Orders) and Putnam County Department of Health.

- iii. Applicants must provide a floor plan diagram indicating the total square footage of property to be used for the outdoor dining area; the location of all tables and chairs; pedestrian and dining areas; width and length of dining area; fire access; ADA access; the location of any tents or awnings, and permanent obstructions (signs, utility poles, hydrants, etc.).
- iv. Applicants must provide the existing indoor capacity of the food service establishment based on the current certificate of occupancy and/or Putnam County Department of Health approvals. A permit for Outdoor Dining shall not exceed the current occupancy limits of the indoor establishment.
- v. Applicants must provide a parking table that includes the existing and proposed number of parking spaces, number of employees, and proposed number of patron seats. The parking table should also indicate if a designated curbside pickup space is provided.
- vi. Entryways, emergency exits, and fire hydrants shall not be obstructed.
- vii. No outdoor entertainment, music or public address system, nor any other forms of noise generation, shall be permitted within the outdoor dining area.
- viii. No outdoor dining shall be permitted after 9:00 p.m. on weekdays and 10:00 p.m. on Fridays and Saturdays.
- ix. No exterior lighting which unreasonably illuminates beyond the boundaries of the outdoor dining area shall be permitted.
- x. Where the Outdoor Dining area occupies sidewalks, parking areas or other space which is not owned by the applicant or specifically occupied by the applicant pursuant to a written lease agreement, the applicant shall provide a written, signed and notarized consent of the owner of the property or properties upon which an Outdoor Dining Area is proposed to be operated. If the owner(s) of such area are a different party than the applicant, prior to the issuance of the permit, there shall be an agreement executed by the owner and applicant to defend and save harmless the Town of Southeast, its officers and employees against any loss, liability or damages sustained by any person or to any property as a result of the operation of the Outdoor Dining Area, together with a certificate of insurance issued to both the owner and tenant as insureds and naming the Town, its officers, and employees as additional insureds, in the minimum amount of \$1,000,000 single-limit general liability coverage approved by the Town Attorney.
- xi. For restaurant operations on a public or private sidewalk, or public right-of-way -
 - (a) Sidewalks fronting the entire property must be in good condition, without violations or illegal encroachments.
 - (b) No permanent structures may be affixed to the sidewalk area used for the Outdoor Dining Area and the area may only be occupied by chairs, tables, benches, umbrellas and planters for the convenience of the patrons. However, the sidewalk area used for the outdoor dining must be marked off and the boundaries of the approved areas clearly delineated by railings, ropes, plants or similar enclosures.

(c) Sidewalk clearances must always be sufficient to ensure a pedestrian path free of obstructions. There must be a minimum clearance of four feet from the curb to the sidewalk area used for the Outdoor Dining Area.

xii. For restaurant operations in parking lots -

(a) The parking lot area used for the outdoor dining must be marked off and the boundaries of the approved areas clearly delineated by railings, ropes, planters or similar enclosures.

(b) The dining area must be a safe distance from parked vehicles and vehicular traffic. Distance should be indicated on the floor plan diagram submitted herewith.

(c) Walkway clearances must always be sufficient to ensure an accessible path free of obstructions.

(d) In shared parking lots (i.e. a shopping center), hours of operation shall be approved by the landlord and shall be based on the current tenant mix but shall not exceed the hours of operation limit set by section (3)(viii) above.

(4) Insurance requirements. Every business must secure and maintain throughout the term of the Temporary Outdoor Dining Permit liability insurance issued by a company duly authorized to do business in the State of New York, insuring the business and the Town of Southeast and to hold them harmless from and against any claim, injury, or damage caused or alleged to be caused by or as a result of the construction, operation or use of the outdoor dining area and any structure hereby authorized in the following minimum amounts:

- i. For bodily injury, including death, in the minimum amount of \$100,000 for any one person and the minimum amount of \$300,000 for any one accident; and
- ii. For property damage in the minimum amount of \$25,000. Failure to maintain insurance coverage in the foregoing amounts shall cause the immediate revocation of the permit.
- iii. The permit to operate outdoor dining shall be immediately revoked if the holder of such license fails to maintain the insurance coverage required pursuant to this subsection of the section, except that such license may be reinstated if such holder presents proof satisfactory to the Town Attorney that the required insurance coverage is in full force and effect.

5. Modification / Suspension / Revocation. The Town, through its Code Enforcement and Building Inspector shall have the right, upon inspection of the permit application or the Outdoor Dining Area, to require modifications of the outdoor dining facility and/or to terminate outdoor dining operations if it is determined that such existing conditions present a harm to public health and safety.

SECTION 3. VALIDITY

The invalidity of any word, section, clause, paragraph, sentence, part, provision of this Local Law shall not affect the validity of any other part of this Local Law that shall be given effect without such invalid part or parts.

SECTION 4 EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date:

Marcus Stancato

(Seal)