



# This Week in New York

**Covering New York State and City Government**

*A Publication of Pitta Bishop & Del Giorno LLC*

*May 15, 2020 Edition*



**“We believe in the ideas of family, mutuality,  
the sharing of benefits and burdens  
for the good of all, feeling one another’s pain,  
sharing one another’s blessing  
recognizing that at the heart of the matter  
we are bound to each other.”**

**-Mario M. Cuomo-**

## ***In the News – State***

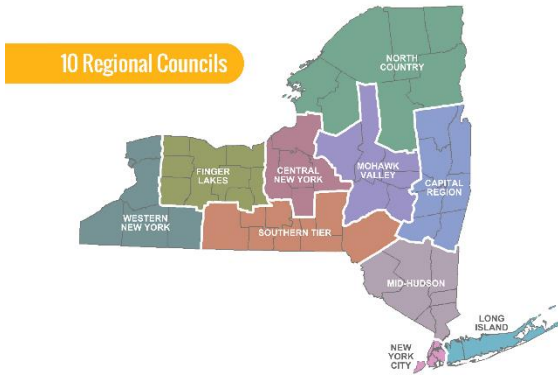


### **Governor Hands Re-Opening Valve to Local Officials**

#### **Finger Lakes, Southern Tier, Mohawk Valley, North Country & Central New York Regions Reopen Today**

Having met all seven COVID-infection metrics, local officials in the Finger Lakes, Southern Tier, Mohawk Valley, North Country, and Central New York today began the first phase of re-opening the regions. New York’s Phase 1 plan allows for opening of the following nonessential businesses: construction, manufacturing, wholesale trade, select retail for curbside pickup only, and agriculture, forestry and fishing.

"We are starting a new chapter in the fight against this virus - we've worked together as a state to flatten the curve and the decline has finally reached a point where it is just about where we started this journey, so now we can turn to reopening," Governor Cuomo said. "... we have put regional control rooms in place, which are made up of the top government officials and academic and healthcare professionals in that region, to watch the situation in each region develop and increase or decrease the activity and speed of reopening based on the metrics and guidelines. These control rooms are critical because we just made it over the mountain and nobody wants to go back to the other side now."



These regional control rooms will monitor the hospitalization rate, death rate, number of new hospitalizations, hospital bed capacity, ICU bed capacity, testing and contact tracing within its region during reopening. The respective control rooms will alert the state if the region's metrics no longer meet the reopening guidelines and will adjust the reopening plan for that region accordingly. Members of each regional control room are available [here](#).

This team will also monitor business compliance with reopening guidelines and ensure that local officials are enforcing these rules when necessary. Businesses will be required to complete a business Safety Plan that local officials will use to monitor compliance with the State guidelines. The plans do not require State approval. The guidelines and templates for each industry are found below:

### Phase One: Construction Guidelines

- Building Equipment & Finishing Contractors
- Foundation, Structure, and Building Exterior Contractors
- Highway, Street and Bridge Construction
- Land Subdivision
- Nonresidential Building Construction
- Residential Building Construction
- Utility System Construction

[Summary Guidelines](#)

[Detailed Guidelines](#)

[Business Safety Plan Template](#)

### Phase One: Retail Trade Guidelines

Phase One includes delivery, curbside, and in-store pickup service only for the following businesses:

- Clothing Stores
- Direct Selling Establishments
- Electronics and Appliance Stores
- Electronic Shopping and Mail-Order Houses
- Furniture and Home Furnishing Stores
- Florists
- General Merchandise Stores
- Health and Personal Care Stores
- Jewelry, Luggage, and Leather Goods Stores
- Lawn and Garden Equipment and Supplies Stores
- Office Supplies, Stationery, and Gift Stores
- Used Merchandise Stores
- Shoe Stores
- Sporting Goods, Hobby, Musical Instrument and Book Stores
- Other Miscellaneous Store Retailers

[Summary Guidelines](#)

[Detailed Guidelines](#)

[Business Safety Plan Template](#)

## Phase One: Wholesale Trade

- Apparel, Piece Goods, and Notions Merchant Wholesalers
- Chemical and Allied Products Merchant Wholesalers
- Furniture and Home Furnishing Merchant Wholesalers
- Household Appliances and Electrical and Electronic Goods Merchant Wholesalers
- Machinery, Equipment, and Supplies Merchant Wholesalers
- Metal and Mineral (except Petroleum) Merchant Wholesalers
- Paper and Paper Product Merchant Wholesalers
- Professional and Commercial Equipment and Supplies Merchant Wholesalers
- Wholesale Electronic Markets and Agents and Brokers
- Miscellaneous Durable Goods Merchant Wholesalers
- Miscellaneous Nondurable Goods Merchant Wholesalers

[Summary Guidelines](#)

[Detailed Guidelines](#)

[Business Safety Plan Template](#)

## Phase One: Manufacturing

- Apparel Manufacturing
- Computer and Electronic Product Manufacturing
- Electric Lighting Equipment Manufacturing
- Fabricated Metal Product Manufacturing
- Furniture and Related Product Manufacturing
- Leather and Allied Product Manufacturing
- Machinery Manufacturing
- Nonmetallic Mineral Product Manufacturing
- Paper Manufacturing
- Petroleum and Coal Products Manufacturing
- Plastics and Rubber Products Manufacturing
- Printing and Related Support Activities
- Textile Mills
- Textile Product Mills
- Wood Product Manufacturing
- Other Miscellaneous Manufacturing

[Summary Guidelines](#)

[Detailed Guidelines](#)

[Business Safety Plan Template](#)

## Phase One: Agriculture, Forestry, Fishing & Hunting Guidelines

- Greenhouse, Nursery, and Floriculture Production
- Animal Production & Support Activities
- Crop Production & Support Activities
- Support Activities for Forestry

[Non Food Agriculture Summary Guidelines](#)

[Detailed Guidelines](#)

[Business Safety Plan Template](#)

[Forestry Summary Guidelines](#)

[Detailed Guidelines](#)

[Fishing Summary Guidelines](#)

[Detailed Guidelines](#)



## NYS Courts Begin to Open Upstate

The New York State Unified Court System will begin the gradual reopening of in-person operations next week in 30 upstate counties that have met the State's COVID-19 safety benchmarks, according to Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence K. Marks.

Beginning next week, New York state judges and chambers staff, as well as clerks and support staff, in 30 counties will return to work at their courthouses, according to the announcement. New cases will also be able to be filed in those counties electronically.

"As we enter this first phase of our return to our courthouses, we will move carefully and steadily," Judge Marks said in a statement. "We will regularly review our safety and other practices, adapting our protocols and facilities as needed, as we strive to serve the justice needs of New Yorkers while balancing the safety of all those who work in and visit our courthouses."

Counties opening courthouses Monday are Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga, Tompkins, Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Wayne, Wyoming, Yates, Fulton, Herkimer, Montgomery, Oneida, Otsego, and Schoharie.

On May 20, courthouses in Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, and St. Lawrence counties will reopen.

During the first phase of reopening, courthouse areas that will be used include judges' chambers, clerks' offices and back offices. Social distancing and other steps to restrict courthouse traffic will be enforced.

Visitors who are not court employees will have to undergo COVID-19 screening before entering a courthouse. Masks must be worn by individuals entering the courthouse, as well as by staff that interact with the public. In addition, court facilities will be regularly sanitized, with hand sanitizer dispensers available through the courthouses.



## Executive Orders by the Governor

### **New York State Executive Order No.202.31 (May 14<sup>th</sup>)**

Extends previous Executive Orders directing NYPAUSE until May 28th. Authorizes the reopening of businesses or entities in the Finger Lakes, Central New York, Mohawk Valley, Southern Tier, and the North Country regions allowing them to enter Phase One effective at 12:01 a.m. on May 15, 2020.

**New York State Executive Order No.202.30 (May 11<sup>th</sup>)**

Issues various directives to nursing homes and adult care facilities through June 9th.

**New York State Executive Order No.202.29 (May 8<sup>th</sup>)**

Extends the provisions of Executive Orders 202.15-202.21 until June 7, 2020 and extends the window of time to file a claim through the Child Victims Act until January 14, 2021.

## *In the News – City*



### **Council Votes to Provide Relief to Small Businesses and Restaurants Impacted by COVID-19**

The New York City Council on Wednesday voted on legislation to protect small businesses impacted by the coronavirus/COVID-19 pandemic. The five-bill package was designed to help small businesses weather the fiscal impacts of the loss of business and limited food service due to efforts to stop the spread of the virus. In addition, the Council passed legislation to provide harassment protections for renters impacted by COVID-19.

#### **Covid Relief Package for Restaurants and Small Businesses**

##### **Caps fees that third-party food delivery platforms may charge**

*Proposed Introduction No. 1908-B, sponsored by Council Member Francisco P. Moya, would restrict the fees that third-party food delivery services may charge restaurants during states of emergency when restaurants are prohibited from offering food for consumption on-premises. These third-party delivery services would be prohibited from charging more than a 15% fee per order for providing delivery services to a restaurant, and more than a 5% fee per order for all other types of charges. Violations of the prohibitions in this bill would be subject to civil penalties of up to \$1,000 per restaurant per day. This bill would remain in effect for the duration of any state of emergency and an additional 90 days thereafter.*

##### **Prevents third-party delivery platforms from charging restaurants for telephone orders that did not result in a transaction**

*Proposed Introduction No. 1898-A, sponsored by Council Member Mark Gjonaj, would prohibit third-party delivery platforms for charging for telephone orders in which a transaction did not take place. This bill would remain in effect for the duration of any state of emergency and an additional 90 days thereafter. Violations of the prohibitions in this bill would be subject to civil penalties of up to \$500 per day per restaurant unlawfully charged.*

**Suspends sidewalk cafe fees**

***Proposed Introduction No. 1916-A***, sponsored by Council Member Andrew Cohen, would require the City of New York to waive and/or refund all revocable consent fees for unenclosed sidewalk cafes due between March 1, 2020 and February 28, 2021. Enclosed sidewalk café consent fees would be waived for the duration of the Mayor’s Emergency Executive Order No. 105 published on April 4, 2020.

**Provides additional protections against commercial tenant harassment**

***Proposed Introduction No. 1914-A***, sponsored by Council Member Adrienne E. Adams and Speaker Corey Johnson, would make threatening a commercial tenant based on their status as a COVID-19 impacted business or person a form of harassment punishable by a civil penalty of \$10,000 to \$50,000. This bill would not impact a tenant’s obligation to pay rent or a landlord’s ability to enforce the terms of the lease, including lawful termination.

**Protects COVID-impacted businesses by suspending personal liability provisions in leases**

***Proposed Introduction No. 1932-A***, sponsored by Council Member Carlina Rivera and Speaker Corey Johnson, would suspend personal liability provisions for certain businesses. These provisions, which are common in small business leases, allow a landlord to hold a business owner personally liable if they are unable to pay rent. To avoid the seizure of an owner’s personal assets or property, they must turn in the keys to the property, effectively ending their lease.

The bill would suspend these provisions for businesses that were impacted by mandated closures or service limitations, including: (1) businesses that were required to stop serving food or beverages on-premises (restaurants and bars); (2) businesses that were required to cease operations altogether (gyms, fitness centers, movie theaters); (3) retail businesses that were required to close and/or subject to in-person restrictions; and (4) businesses that were required to close to the public (barbershops, hair salons, tattoo or piercing parlors and related personal care services).

**Housing & Buildings**

**Amends the definition of harassment to include threats based on a person having been impacted by COVID-19**

***Proposed Introduction No. 1936-A***, sponsored by Council Member Ritchie J. Torres and Speaker Corey Johnson, would expand the definition of harassment to include threats against an individual based on their status as a COVID-19 impacted person, their status as an essential employee, or their receipt of a rental concession or forbearance.

Violations of this legislation would be punishable by a civil penalty of \$2,000 to \$10,000.



## AG James Calls on the NYPD to Ensure Equal Social Distancing Enforcement in NYC Communities

### *Call Follows Reports and Videos of Aggressive Enforcement Procedures by the NYPD Towards Communities of Color*

Attorney General Letitia James this week called on the New York City Police Department (NYPD) to address reports of the department's unequal enforcement of social distancing rules throughout the City of New York.

The request follows recent reports and videos of aggressive enforcement tactics by the NYPD in black and Hispanic neighborhoods. Attorney General James sent a [letter](#) to NYPD Commissioner Dermot Shea requesting enforcement data.

Specifically, Attorney General James has requested the following information from the NYPD:

- All documents regarding NYPD policies or directives for enforcing social distancing laws and regulations, including any materials used to train officers on social distancing enforcement;
- All data reflecting 311 complaints of alleged violations of social distancing rules;
- All data on live arrests by NYPD officers related to a failure to comply with social distancing rules, including the total number of arrests in the relevant period per race and age group of the arrestee and per precinct;
- All data on criminal summonses issued by NYPD officers related to a failure to comply with social distancing rules, including the total number of arrests in the relevant period per race and age group of the arrestee and per precinct; and
- All data on civil summonses issued by NYPD officers related to a failure to comply with social distancing rules, including the total number of arrests in the relevant period per race and age group of the arrestee and per precinct.

The Civil Rights Bureau of the Office of the New York State Attorney General enforces laws that protect all New Yorkers from discrimination based on race, color, or national origin, among other protected classes. If an individual believes they have been a victim of discrimination or have other information relevant to this inquiry, they can contact the Civil Rights Bureau by calling 212-416-8250 or emailing [civil.rights@ag.ny.gov](mailto:civil.rights@ag.ny.gov).

# Briefs

## NY and Surrounding Area Beaches May Open for Memorial Day

Governor Andrew Cuomo announced Friday that state beaches in New York, New Jersey, Connecticut and Delaware may reopen the Friday before Memorial Day, with measures put in place to avoid a resurgence of the COVID-19 virus. The reopening of beaches was coordinated with neighboring states.

“Our relationship and responsibility to our other states, neighboring states is important ... It’s not in New York’s interests to have New Yorkers go to a New Jersey beach which is going to be crowded,” or in other neighboring states, Governor Cuomo said.

Rules for reopening beaches include: limiting capacity to 50%; keeping areas of social gathering and concession stands closed; and enforcing social distancing. All employees are required to wear masks and visitors will be required to have them. Contact sports or group activities are prohibited.

“No volleyball, not football, nothing like that,” Governor Cuomo explained.

According to the Governor, local municipalities such as cities, towns and villages can decide to stay closed.

Mayor Bill de Blasio indicated that New York City beaches will be closed Memorial Day weekend.

## 12 More Counties Are Now Eligible to Resume Elective Surgeries

Hospitals in 47 counties are now eligible to resume elective surgeries as Governor Andrew Cuomo this week announced 12 more counties have met the necessary criteria. Ambulatory surgical centers in these 47 counties will also be able to resume elective surgeries.

The eligible counties are: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Franklin, Fulton, Genesee, Herkimer, Jefferson, Lewis Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, St. Lawrence, Steuben, Sullivan, Tompkins, Ulster, Warren, Wayne, Wyoming and Yates.

Additionally, the State Department of Health clarified that these centers may continue providing certain diagnostic or screening procedures such as for cancer. Empire State Development Corporation also clarified that doctors' visits continue to be permitted and remain open as essential businesses.



## **State Directs Hospitals to Prioritize COVID-19 Testing for Children**

Governor Andrew Cuomo this week directed hospitals statewide to prioritize COVID-19 testing for children displaying symptoms similar to an atypical Kawasaki disease and toxic shock-like syndrome. The State is currently investigating approximately 100 reported cases in New York where children -- predominantly school-aged -- are experiencing these symptoms possibly due to COVID-19.

New Yorkers should seek immediate care if a child has:

- Prolonged fever (more than five days).
- Difficulty feeding (infants) or is too sick to drink fluids.
- Severe abdominal pain, diarrhea, or vomiting.
- Change in skin color - becoming pale, patchy and/or blue.
- Trouble breathing or is breathing very quickly.
- Racing heart or chest pain.
- Decreased amount of frequency in urine.
- Lethargy, irritability, or confusion.

## **New York AG Issued 1,686 Cease and Desist Orders During Pandemic**

New York State Attorney General Letitia James' Office has issued more than 1,685 cease and desist orders during the CVOVID-19 pandemic to businesses accused of price gouging, labor issues, violating passenger transportation rules, or marketing products as cures, according to published reports. The cease and desist orders predominantly involved price gouging (1,520), followed by passenger transportation rules (78) and marketing "cures" for COVID-19 (18).

In addition, the Attorney General's Office has reviewed more than 3,420 "labor and employment inquiries," which included complaints from workers who said their employers were directing them to return even though their business may not have been deemed "essential."

According to published reports, the Attorney General's office could not immediately say whether any of the cases have been pursued with court action or prosecutions.

## **Cannabis Trade Association Group Urges Legalization To Hike Tax Revenue Amid COVID-19**

National Association of Cannabis Businesses (Association) is urging the governors of several Northeastern states Thursday to legalize cannabis to make up for tax revenue lost to COVID-19.

The Association asked the Governors of New York, New Jersey, Connecticut, Delaware, Pennsylvania, Rhode Island and Massachusetts to pass legislation to fully legalize cannabis as the states begin to reopen. Legalizing cannabis sales and encouraging retailers to employ strategies such as home delivery and curbside pickup would generate millions of dollars in tax revenue to replace revenue lost to the pandemic, according to the Association.

"In states where cannabis has already been legalized, the industry is boosting small business and minority entrepreneurship, creating jobs and generating millions of dollars in state tax revenue," said Gina Kranwinkel, the association's chief executive officer.

## **Western New York Law Firm Sues Cuomo Over COVID-19 Closure Order**

HoganWillig PLLC , a law firm which operates five offices in western New York, is suing Governor Andrew Cuomo and State Attorney General Letitia James for alleged abuse of power after the firm received a "cease and desist" order for allowing employees to report to the office amid the COVID-19 pandemic, according to published reports.

In a complaint filed in the Western District of New York, HoganWillig asserts that the Executive Orders Governor Cuomo signed in March violated the U.S. Constitution, while Attorney General James' "scare tactics" claims that the firm would face civil and criminal penalties violates the firm's rights under the Equal Protection Clause.

"Defendants, in a disturbing and gross abuse of their power, have seized the COVID-19 pandemic to expand their authority by unprecedented lengths, without any proper constitutional, statutory or common law basis therefore," according to the complaint. "Plaintiff thus brings this lawsuit to assert challenges to the ultra vires actions taken by defendants in response to the COVID-19 pandemic."

HoganWillig contends that the New York State Department of Economic Development designated it as an "essential business," according to the complaint. The firm asked that the court issue an order ruling that Cuomo and James are abusing their power and should cease, and that the state pay for the firm's attorney fees and costs, according to the complaint.

## **Test and Trace: City Expands Testing Criteria to Test More New Yorkers**

*City aims to test 20,000 New Yorkers a day by the week of May 25th*

Mayor de Blasio announced this week that any person with COVID-19 symptoms is now eligible to receive a test in New York City. Those who have been exposed to a positive case or work in a congregate residential setting are also eligible for testing regardless of symptoms.

New Yorkers will now be eligible to receive a COVID-19 test if they have:

- COVID-19 symptoms, regardless of age, chronic conditions or occupation
- Come in close contact with a confirmed COVID-19 patient, regardless of symptoms
- Work in a congregate residential setting (nursing home, shelter, or adult care facility), regardless of symptoms

Information on testing sites is available at: [nyc.gov/covidtest](https://nyc.gov/covidtest).

## **Mayor de Blasio, NYC Banking Commission Recommend Eliminating Interest on July Property Tax Payments for Certain Property Owners Facing Hardship Due to COVID-19**

*Banking Commission recommends creating hardship exemption for owners whose property is assessed below \$250,000, reducing interest rate for late payments in Fiscal Year 20-21*

The New York City Banking Commission, made up of Mayor Bill de Blasio, Department of Finance Commissioner Jacques Jiha, and City Comptroller Scott Stringer, this week recommended that the New York City Council create a new hardship exemption to eliminate interest on late payments for property taxes due in July for taxpayers whose property is assessed below \$250,000 and who have a financial hardship as a result of COVID-19.

The Banking Commission also recommended the New York City Council accept two sets of interest rates that would be charged for all other property owners who pay their taxes late in Fiscal Year 2020-21 and whose properties are assessed below \$250,000. The Banking Commission recommended charging a 3.25 percent interest for late payments in July, with the rate rising to 5 percent for the remaining three quarters of Fiscal Year 2020-21. In Fiscal Year 2019-20, the interest rate for these properties was 7 percent, which was already the lowest interest rate of all big cities in the nation.

## ***Coming Up***

### ***New York State***

***Wednesday, May 19<sup>th</sup>***

***Exploring solutions to the disproportionate impact of COVID-19 on minority communities.*** Joint NYS Senate & NYS Senate Hearing, [Remote Hearing](#), 10 a.m.

### ***New York City***

***Monday, May 18<sup>th</sup>***

***Committee on General Welfare, Committee on Finance, Committee on Justice System, & Committee on Parks and Recreation,*** Remote Hearing. 10 a.m.

**NEW YORK CITY COUNCIL FISCAL YEAR 2021**

**EXECUTIVE BUDGET HEARINGS**

10:00 - 1:00 Human Resources Administration and Homeless Services

1:00 - 1:30 Office of Civil Justice (Human Resources Administration)

3:00 - 5:00 Parks and Recreation

***Tuesday, May 19<sup>th</sup>***

***Committee on Criminal Justice & Committee on Justice System***, Remote Hearing, Noon.  
**T2020-6170** Oversight - COVID-19 in City Jails and Juvenile Detention Centers.

**T2020-6175** A Local Law to amend the New York City charter, in relation to adding a new section creating a local conditional release commission.

**T2020-6183** A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of correction and correctional health services to issue reports during public health emergencies.

**T2020-6184** A Local Law to amend the administrative code of the city of New York, in relation to the maximum fee allowed when transferring money to a person in the custody of the department of correction.

***Wednesday, May 20<sup>th</sup>***

***Committee on Finance, Committee on Small Business, Committee on Governmental Operations, Committee on Youth Services, Committee on Justice System, Committee on Public Safety***, Remote Hearing, 9:30 a.m.

**NEW YORK CITY COUNCIL**

**FISCAL YEAR 2021 EXECUTIVE BUDGET HEARINGS**

9:30 - 11:00 Small Business Services

11:30 - 1:00 Citywide Administrative Services

1:30 - 3:00 Youth and Community Development

3:15 - 4:00 Criminal Justice Coordinator

4:15 - 5:30 District Attorneys

5:45 - 6:15 Legal Aid

***Thursday, May 21<sup>st</sup>***

***Committee on Finance & Committee on Public Safety***, Remote Hearing, 3:15 p.m.

**NEW YORK CITY COUNCIL FISCAL YEAR 2021**

**EXECUTIVE BUDGET HEARINGS**

3:15 - 4:00 Criminal Justice Coordinator

4:15 - 5:30 District Attorneys

5:45 - 6:15 Legal Aid

***Friday, May 22<sup>nd</sup>***

***Committee on Public Safety***, Remote Hearing, 11 a.m.

**Oversight - NYPD Enforcement of Social Distancing.**

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