Reopening Local Governments During the COVID Pandemic

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Overview

Since March 7, 2020, residents of New York State have been living and working under a series of Executive Orders, known collectively as “NY on Pause” which were issued by Governor Cuomo to address the community contact transmission of the novel Coronavirus or COVID-19. Communities throughout the State have been successful in changing the trajectory of COVID-19 infections, and on May 14, 2020 Governor Cuomo began to ease some of the previously ordered restrictions. Known as, “New York Forward,” the State’s reopening program implements a system in which different industries and activities are phased back into the economy and society. Consequently, local governments are repositioning themselves to resume regular government operations while adhering to new procedures intended to mitigate the risk of COVID transmission.

Unfortunately, it is unclear where local governments fit in the New York Forward program. While businesses are preparing to move out of PAUSE and reopen under New York Forward when their region meets the prescribed public health and safety metrics, New York’s local governments have continued to operate under Executive Order 202.4, which Governor Cuomo issued on March 16, 2020. The Executive Order provides in relevant part:

Any local government or political subdivision shall, effective March 17, 2020, allow non-essential personnel as determined by the local government, to be able to work from home or take leave without charging accruals, except for those personnel essential to the locality’s response to the COVID-19 emergency. Such non-essential personnel shall total no less than fifty-percent (50%) of the total number of employees across the entire workforce of such local government or political subdivision.

While there was some confusion as to the expiration date of Executive Order 202.4, NYCOM has confirmed with the Governor’s office that, pursuant to Executive Order 202.35, Executive Order 202.4 is effective through June 28, 2020.

Note, however, that Executive Order 202.39 further amended the applicability of Executive Order 202.4. Specifically, pursuant to Executive Order 202.39, Executive Order 202.4 does not apply to a local government two weeks after the region in which the local government is located enters Phase Two of the New York Forward program.

Executive Order 202.4 does not define essential and non-essential employees. Despite this, the Governor’s Office has advised that the following individuals be considered as an “essential” employee for purposes of the Executive Order:

(a) “[A]ny person whose job function is essential to the effective operation of their agency or authority, or who must be physically present to perform their job,” or
(b) Any person “who is involved in the emergency response to COVID-19.”

Moreover, the wording of Executive Order 202.4 has created confusion about what exactly is meant by 50% workforce reduction. As quoted above, the first sentence is clearly permissive in that it allows non-essential personnel to work from home. Stated differently, as a result of the Executive Order, local governments may not require non-essential personnel to come into work. However, the Order does not prohibit local governments from operating non-essential functions. Despite this permissive phrasing, the second sentence imposes a limitation on the extent to which local governments may have non-essential personnel working on-site.

Consequently, the phrasing of Executive Order 202.4 has raised many questions. For example, Does the 50% reduction language mean that local governments should reduce 50% of the non-essential workforce only? Or does Executive Order 202.4 mean that in no instance may a local government’s total on-site workforce, essential and non-essential, constitute more than 50% of the local governments total number of employees? Stated differently, perhaps the Order means that 50% of the local government’s total workforce (essential and non-essential) should work from home whether or not the essential work could be performed remotely? This language is problematic from a practical perspective. For many municipalities, more than 50% of their workforce may be necessary to perform essential functions. As a result, Executive Order 202.4 could be
interpreted as requiring local governments to operate with fewer employees than is actually necessary to perform an essential function.

While these questions remain unanswered, compliance with Executive Order 202.4 to date has generally been inconsequential, as local governments across the State have been doing their best, by taking reasonable steps to have municipal staff work from home as much as possible and putting in place safety procedures for those essential workers that could not perform their jobs remotely. As the State reopens, however, the applicability of Executive Order 202.4 is being reexamined. On May 14, 2020, the State provided the following guidance (https://esd.ny.gov/nyforward-faq), with respect to where and how local governments fit in the New York Forward program:

*Local Government operations were excluded from the essential business designation, does this mean all municipally owned sites can continue in counties that are still on PAUSE?*

*Answer: Municipal government operations should practice physical distancing and telecommuting as much as possible, however it is up to the individual municipality how they determine which functions are essential. All local governments are operating at a maximum of 50% in-person workforce presence.*

Again, this guidance fails to offer any clarification for the questions raised by the Executive Order 202.4 language. As a result, local officials are strongly encouraged to consult with their municipal attorney before taking any action with respect to having the essential and non-essential workforce return to work.

**ESSENTIAL FUNCTIONS**

Essential public functions include those operations deemed necessary for the functioning of the local government *as determined by the local government itself*. Examples of essential public functions include, but are not necessarily limited to, the city council and village board of trustees, police, fire, courts, water, sewer, street and sidewalk maintenance and repair, department of public works personnel necessary to maintain municipal property, zoning boards of appeals, planning boards, architectural review boards and any other agency that issues permits or approvals, and any other local government staff necessary to protect the public’s health, safety, and welfare. In addition, the staff necessary to support those operations and to continue the functioning of the local government, including human resources, payroll, and accounting personnel are also considered essential. The aforementioned operations have not been interrupted and may continue, as the PAUSE restrictions are lifted and the State moves into the New York Forward program. Additionally, NYCOM is of the opinion that local governments may operate essential functions at any capacity that local government officials determine is necessary to continue providing that essential service, notwithstanding the 50% workforce reduction requirement of Executive Order 202.4.

**OPENING OFFICES TO THE PUBLIC**

Nothing in any of the Governor’s Executive Orders required local governments to close their offices to the public. However, local governments that have their offices open or are reopening previously closed offices, must take precautions to protect both municipal staff and the public from the risk of COVID transmission.

**Local Government Employee Safety**

**SAFETY MEASURES REGARDLESS OF ESSENTIAL OR NON-ESSENTIAL STATUS**

All essential local government functions that were performed during PAUSE should have been conducted with safety measures put in place. Moving forward, local governments should operate all essential and non-essential functions according to a locally adopted COVID mitigation plan, which is discussed in greater detail below. In most respects, the procedures that local governments should, or must, put in place are identical to the mitigation measures private businesses are mandated to follow.
Facility Cleaning & Disinfecting

Cleaning and disinfecting municipal facilities are critically important components of municipal re-opening plans. The Center for Disease Control (CDC) has advised that the virus that causes COVID-19 can be killed by using the correct cleaning products. Additionally, the US Environmental Protection Agency (EPA) has compiled a list cleaning and disinfectant products that have been proven to kill the virus that causes COVID-19. The EPA list can be found here: https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2

To protect employees and the public when working in and entering municipal facilities, regular and frequent cleaning of municipal facilities and equipment is required. Moreover, the New York State Department of Health’s (DOH) Re-opening Safety Plan for businesses requires employers to adhere to CDC and DOH sanitation guidelines. Municipal employers should follow the same procedures as private businesses in order to protect the health and safety of everyone who enters a municipal building.

Municipal officials must maintain detailed cleaning logs noting the date, time and scope of cleaning. Cleaning logs constitute a municipal record. Therefore, all cleaning records created by the municipality must be maintained and protected like all other government records.

In addition, municipal employers must ensure that employees responsible for facility cleaning and sanitizing recognize their important role in protecting the public health. High traffic and occupied spaces need to be cleaned frequently. This is especially true for restrooms and common spaces such as lobbies and conference rooms where the public assemble in order to conduct public business.

The DOH also requires employers to provide and maintain hand hygiene stations that include soap, water and paper towels, or an alcohol-based hand sanitizer containing 60% or more alcohol in areas where handwashing is not possible. As part of the State’s business reopening plan, employers are required to document where within the facility the hand hygiene locations are located and how employers will train staff on safe hygiene practices.

Temperature Checking

Managers are rightfully concerned about workplace safety and how to strike a balance between protecting workers’ privacy rights, while also ensuring a safe work environment for others. During the declared pandemic, employers are authorized to take certain actions to protect public health that, in ordinary times, may not be necessary, such as checking employees’ temperatures prior to the start of a shift to indicate whether they may have been exposed to the COVID-19 virus. As a result, employers have questions on how to manage these delicate issues. To assist employers, the U.S. Equal Employment Opportunity Commission (EEOC) has published a helpful FAQ guidance document addressing employee temperature checks, and other mechanisms used to manage employee safety, such as stay-at-home orders, fitness for duty certifications, COVID-19 medical testing and confidentiality requirements. Click HERE to view the U.S. EEOC FAQ guidance document. Employees who are coughing, sneezing or not feeling well should stay home!

Social Distancing

Social distancing and face coverings are at the foundation of all reopening plans. Upon reopening, municipalities are required to ensure that employees and the public maintain a safe distance from each other (minimum of 6 feet). In order to comply with social distancing requirements employers may need to rearrange work stations and schedules. Additionally, employers may be asked to consider reasonable accommodations for employees in “high-risk” categories. The high-risk population includes older workers and employees of all ages with underlying medical conditions. Lastly, points of entry into municipal buildings should be limited and all visitors must sign an entry log. The entry log will assist contact tracers, who are the individuals responsible for tracking the transmission of the COVID-19 virus, in the event of an infection.

Face Masks

All employers in New York are required to provide face coverings to employees who interact with the public. While face coverings must be provided to employees at no cost, an employee may choose to wear their own personal covering. However, employees may not be required to provide their own face coverings. Some
employees may not be able to wear a face covering due to underlying medical conditions. In these circumstances, the NYS DOH recommends that employers consider making reasonable accommodations within the workplace for employees who are unable to wear a face covering. For additional information, please see the NYS DOH guidance document at: https://coronavirus.health.ny.gov/system/files/documents/2020/04/doh_covid19_eo20216employeefaceremovalng_041420.pdf

**TAYLOR LAW**

Public employers with unionized workers are mandated to negotiate terms and conditions of employment. Terms and conditions of employment by definition include many of the new safety procedures required of employers as part of the State’s New York Forward plan. Most collective bargaining agreements contain a management right’s clause, which, under certain circumstances, allows an employer the ability to implement certain policies and procedures without the need to negotiate with the union. However, many of the new safety procedures being implemented by employers will likely fall outside the scope of most management rights clauses. As a result, new policies may necessitate the need to bargain with the labor unions. Cities and villages are encouraged to carefully review all existing labor contracts in consultation with the municipal attorney and to open the lines of communication with the unions in anticipation of implementing the new safety policies and procedures.

**COVID-19 PAID MEDICAL LEAVE**

Legislation has been enacted to provide at least fourteen days of paid sick leave for municipal officers and employees who are subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. This would apply to all full and part-time employees. Such employees would be compensated at their regular rate of pay and would not have to use their accruals during this period. Read the full memo from the Governor’s Office

**COVID-19 MEDICAL PRESUMPTION (GENERAL MUNICIPAL LAW 207-A AND 207-C)**

Police officers (§ 207-c) and Firefighters (§207-a) injured in the line of duty may qualify for generous disability benefits under the General Municipal Law. For example, an employee receiving § 207 benefits is entitled to all necessary medical treatment and receipt of a municipal disability benefit equal to the full amount of regular salary or wages until retirement. Included under the law are certain “presumptions” that assume a particular diagnosis was a result of a line of duty injury. This is important because when a disability is presumed to have occurred in the line of duty the burden falls to the employer to disprove that it did not occur while on the job. It is extremely difficult and rare for an employer to disapprove a medical presumption. Currently, there is no COVID-19 presumption for police and fire. As a result, a police officer or firefighter diagnosed with COVID-19 must establish that they did so while in the line of duty in order to potentially qualify for § 207 benefits. However, legislation has been introduced in the NYS legislature (A.10378/S.8287) that would establish a COVID-19 presumption for police and fire service providers. NYCOM will continue to monitor the legislation and notify NYCOM members in the event there is movement on the bill.

**MENTAL HEALTH ASSISTANCE**

Employers are generally cautious about getting too involved with the health conditions of their employees. However, there are times when compassionate outreach is needed. As employees begin their return to the “new normal,” managers must be prepared for the high levels of stress and anxiety that some employees may experience upon their return to work. Employees who experience overwhelming worry, hopelessness or thoughts of suicide should immediately seek help. New York State has assembled information and a hotline which is accessible at https://coronavirus.health.ny.gov/protect-yourself-and-your-family-coronavirus-covid-19#managing-stress-and-anxiety
Justice Courts: Preparations to Resume Regular Court Operations

Since mid-March, the State’s justice courts have been conducting only "essential business," which has consisted mainly of after-hour arraignments and the issuance of orders of protection. The justice court system is preparing to resume regular court operations, although at this time and until further notice, the Justice Courts remain closed to the public. As operation of the village justice court is a village expense, village officials should coordinate with the village justice to comply with the requirements for resuming court operations.

To prepare for the reopening of the justice courts, the Office of Court Administration has issued the following guidance and authorizations. If the village has provided VPN-remote access, court clerks should continue to work remotely from home whenever possible. However, the Office of Court Administration has authorized one court clerk at a time or a judge with no court clerk to return to the court facility to perform the following tasks:

- Processing mail and court filings;
  - For any court that placed a hold on its mail delivery with the Postal Service, such hold may now be rescinded;
  - Mail should be processed as soon as possible upon return to the court facility;
  - All monies received, including online payments, should be receipted and deposited with banking institutions as soon as possible. Court clerks may not, under any circumstances, bring any monies home or otherwise outside the court facility for processing other than for immediate deposit;
  - Any other file work that can be safely processed while at the court facility;
- Data entry within The CourtRoom program:
  - Clerks should prioritize and perform data entry of any after-hours proceedings conducted since March 16, 2020;
  - All Criminal Disposition Reporting should be completed as soon as possible;
  - Any necessary WebDVS entries should be done as soon as possible;
  - Clerks should process all recently filed or pending vehicle and traffic matters;
- The lifting of restrictions on Justice Court operations for court clerks is conditioned upon the clerks observing the following recommended practices:
  - Court clerks should not report to work if ill or experiencing COVID-19 symptoms;
  - Signage should be posted indicating that public access to the courtroom and court clerk’s office/window is prohibited;
  - Social distance (minimum of 6 feet) should be maintained from other municipal employees within the court complex, and if a court clerk needs to be within six feet of a co-worker, face masks or other similar protective face covering should be utilized;
  - Frequent and thorough hand washing is encouraged, as is routine use of hand sanitizers or alcohol disinfectant wipes;
  - Personal Protective Equipment (PPE) should be utilized at the court clerk’s workstation, when possible;
  - Routine cleaning of surfaces, equipment, and workstation is encouraged, before and after work sessions, using appropriate cleaning and disinfection methods;
  - Court staff should be discouraged from using other workers’ phones, desks, offices, or other work equipment, unless appropriately cleaned and disinfected.

If a justice court wants to have more than one clerk access the court facility at this time, the court must obtain approval from the District Administrative Judge.

While each District may have slight modifications, the following is a brief summary of what the town and village courts’ phase II plan will include:

- Judges may conduct in-person small claims matters and civil proceedings.
- Judges may conduct in-person dangerous dog hearings.
- Judges may continue to work on their own cases by taking acceptable pleas on papers and conducting virtual conferences.
Judges may impose sentences, by non-in person means, on pending VTL matters where the court has received a guilty plea. However, courts should NOT suspend licenses or take other punitive action for failure to pay or appear during this Phase.

The Virtual arraignment procedure shall continue.

All "in-person" foot traffic within town and village courts will be conducted by the established social distancing rules (i.e., 6-foot distance maintained, facial coverings worn at all times by anyone entering the courthouse/room, etc.) and that the court has obtained proper PPE.

Hearings shall be staggered.

Virtual ADR shall be encouraged.

Some additional guidance and information regarding the above:

Small Claims filings: Commencing on day 1 of the counties Phase 2 date, the town and village courts may begin to schedule in-person small claims hearings. The Uniform Justice Court Act requires that a small claims matter be scheduled no less than 21 days nor more than 45 days from the date of filing. For the purpose of establishing filing dates for matters filed prior to the commencement of this Phase, the date of the commencement of Phase 2 will be used as the date of filing. As such, we would recommend staggering the scheduling of these hearings so as to achieve fewer individuals within the courthouse at any one time and to utilize the later end of the 22-45 day requirement. Virtual Alternate Dispute Resolution (ADR) is encouraged where available, and courts should obtain any relevant information in regard to such availability within their respective counties.

Civil matters (not including Summary Proceedings): Town and village courts may sign summons filed with the court allowing for in-person civil proceedings in accordance with rules for Summonses under UJCA §402 (defendant shall be required to appear not less than six nor more than thirty days after service is complete) and setting a date for trial pursuant to UJCA §1301 (set a date for trial not less than ten nor more than thirty days after a defendant appears before the clerk to answer in person). As such, we would recommend staggering the scheduling of these hearings so as to achieve fewer individuals within the courthouse at any one time and to utilize the later end of the 10-30 day requirement. Virtual ADR is encouraged where available, and courts should obtain any relevant information in regard to such availability within their respective counties.

Dangerous Dogs: Allow for the filing of civil dangerous dog proceedings under Agriculture & Markets Law §123. Judges should make the initial seizure determination upon the filing and thereafter schedule in-person hearings as practicable.

VTL matters: Court may impose sentences on pending VTL matters where the court has received guilty pleas, or where sentencing was postponed on or after March 17th. Courts should NOT suspend licenses for failure to pay or appear during this Phase. No additional in-person appearances will be scheduled during Phase 2.

Criminal matters: Specialized County Court parts (or in some counties Virtual CAP parts) will continue to conduct virtual arraignments during the hours of 9am - 5pm. During evenings, weekends and holidays, the off-hours virtual appearance parts will continue for town and village courts. No additional return dates will be scheduled for in-person appearances during Phase 2.

Web Based Texting: Finally, as we continue to phase in our return to in-person court operations, I wanted to share with you something that the Division of Technology has been programming for the Town and Village Courts. We have been working with DoT to develop a web-based texting service to help courts stagger their in-person appearances. This tool can assist the court in controlling the number of people in the courtroom at one time by enabling clerks to send a text to parties who sign in on court-night when it is time for them to return to the courtroom for their matter. We will be sending out more information on this texting service once it is available for court use. It is our hope that it will help solve a problem faced by many courts, and we wanted you to know about it as you develop your individualized plans for handling in-person appearances in upcoming phases.

As all judicial Districts begin the process of planning Phase II of a return to in-person operations for town and village courts we encourage you to continue to work with your municipalities in obtaining necessary PPE.
equipment, as well as making considered decisions regarding social distancing protocols, manipulation of seating to accommodate eventual smaller in-person attendance, signage placement for employees and court users, etc.

**Public Safety**

In addition to having a plan for protecting the safety of its workforce, local governments must also develop plans and procedures for protecting the public. While the State and various industry groups are developing industry-specific strategies, local governments may have to adopt a variety of plans to address all the types of activities they undertake.

State guidance regarding local government operations during the pandemic has been imprecise, particularly when compared to the guidance provided to businesses. However, local governments will need to meet the minimum State and federal safety standards before resuming any suspended operations. Applicable standards include those developed by the NYS Department of Health, as well as the requirements set forth by 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).

Municipal officials should also consult with their insurance carriers to ensure that they are implementing the recommended practices in order to minimize risk exposure.

**LOCAL GOVERNMENT PANDEMIC OPERATIONS PLAN**

**Background**

The State has recommended that organizations formulate and implement their pandemic response based on three distinct categories: people, places, and processes. The following are the general guidelines the State has formulated for resuming operations.

**People**

**Physical Distancing**

- The workforce presence is limited to only the employees necessary to conduct local government operations, but no more than 50% of the maximum occupancy for a particular area as set by the certificate of occupancy; and
- Management must ensure that employees maintain a distance of at least six feet at all times, unless safety of the core activity requires a shorter distance. Any time employees must be within six feet of another person, acceptable face coverings must be worn. Employees must be prepared to don a face covering if another person unexpectedly comes within six feet.
  - 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.
  - 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 due to the nature of the work. For those activities, N95 respirators or other personal protective equipment (PPE) used under existing industry standards should continue to be used, as is defined in accordance with OSHA guidelines.
- Management may modify the use and/or restrict the number of work spaces 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 work stations or spaces without cleaning and disinfection between use. When distancing is not feasible between work stations or spaces, management must provide and require the use of face coverings or enact physical barriers, such as plastic shielding walls, in lieu of face coverings in areas where they would not affect air flow, heating, cooling, or ventilation.
  - 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.

- Management should encourage the use of touchless payment options or payahead, when available, and should minimize handling cash, credit cards, reward cards, and mobile devices, where possible.

- Management is encouraged to modify office and building layouts so that employees are at least six feet apart in all directions, unless physical barriers are in place (e.g., Plexiglass or partitions at cash registers).

  - Management must require employees to use cloth face masks when interacting with members of the public.

  - Management must reserve adequate space for employees to work, considering appropriate social distancing (e.g., close high-density areas, rearrange fixtures).

- Management must prohibit the use of tightly confined spaces (e.g., small stock rooms, behind cash registers, narrow merchandise aisles, elevators, stock rooms) by more than one individual at a time, unless all employees in such spaces at the same time are wearing acceptable face coverings. However, occupancy must never exceed 50% of the maximum capacity of the space, unless it is designed for use by a single occupant. Management should increase ventilation with outdoor air to the greatest extent possible (e.g., opening windows, leaving doors open), while maintaining safety protocols.

- Management should put in place measures to reduce bi-directional foot traffic using tape or signs with arrows in narrow 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, front desks, payment windows, locker rooms, etc.).

- Management must post signs outside the buildings and rooms accessible to the public to remind individuals to adhere to social distancing instructions.

- Management must post signs, consistent with DOH COVID-19 signage. Management can develop their own customized signage specific to their workplace or setting, provided that such signage is consistent with the New York State Department of Health’s signage. Signage should be used to remind employees to:

  - Cover their nose and mouth with a mask or cloth face-covering when six feet of social distance cannot be maintained.

  - Properly store and, when necessary, discard personal protective equipment.

  - Adhere to physical distancing instructions.

  - Report symptoms of or exposure to COVID-19, and how they should do so.

  - Follow hand hygiene and cleaning guidelines.

_Gatherings in Enclosed Spaces_

- Management must limit in-person gatherings (e.g., employee meetings, break rooms, stock rooms) 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, Management 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).

- Management must put in place practices for adequate social distancing in confined 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; and

- Management should stagger schedules for employees to observe social distancing (i.e., six feet of space) for any gathering (e.g., while taking breaks, space between cars for pickup).

_Workplace Activity_

- Management must take measures to reduce interpersonal contact and congregation, through methods such as:

  - limiting in-person presence to only those staff who are necessary to be on site;

  - adjusting workplace hours to spread employee and customer traffic over longer period of time;
- reducing on-site workforce to accommodate social distancing guidelines;
- shifting design (e.g., A/B teams, staggered arrival/departure times); and/or
- batch activities, where possible, so employees can adhere to social distancing and reduce the number of hands touching products at the same time (e.g., one employee does all packing and a separate employee fulfills the delivery).

- Management should adjust hours of operation and hours the offices are open to the public necessary to enable enhanced cleaning procedures.

Movement
- Management should prohibit non-essential visitors on site.
- Management must establish designated areas for pickups and deliveries, limiting contact to the extent possible.
- Management should arrange waiting areas (e.g., lines, parking areas) to maximize social distance among members of the public and minimize interaction with others in the area.

Places

Protective Equipment
- Management must ensure employees wear face coverings when interacting with the public or coworkers within six feet distance AND without a physical barrier (e.g., plexiglass).
- In addition to necessary personal protective equipment (PPE) as required for certain workplace activities, management 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. Management should have an adequate supply of face coverings, masks and other required PPE on hand should an employee need a replacement or should an essential visitor 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 covering must be cleaned or replaced after use and may not be shared. Please consult the CDC guidance for additional information on cloth face covers and other types of personal protective equipment (PPE), as well as instructions on use and cleaning.
  - Note that cloth face coverings or disposable masks are not 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 work activities, a cloth or homemade mask would not suffice. Management must adhere to OSHA standards for such safety equipment.
- Management must allow employees to use their own acceptable face coverings but may not require employees to supply their own face coverings. Further, employees may wear their own additional protective coverings (e.g., surgical masks, N95 respirators, or face shields).
- Management must put in place measures to limit the sharing of objects, such as objects, tools, registers, and vehicles, as well as the touching of shared surfaces; or, require workers to wear gloves (trade-appropriate or medical) when in contact with shared objects or frequently touched surfaces; or, require workers to sanitize or wash their hands before and after contact.
- Management must ensure gloves are worn while handling any food products.
- Management must train workers on how to adequately put on, take off, clean (as applicable), and discard PPE, including but not limited to, appropriate face coverings.

Hygiene and Cleaning
- Management must ensure adherence to hygiene and sanitation requirements as advised by the CDC and NYS DOH, including “Guidance for Cleaning and Disinfection of Public and Private Facilities for COVID-19,” and the “STOP THE SPREAD” poster, as applicable. Management must maintain cleaning logs that include the date, time, and scope of cleaning.
- Management must provide and maintain hand hygiene stations on site, as follows:
  - For handwashing: soap, running warm water, and disposable paper towels.
  - For sanitizer: an alcohol-based hand sanitizer containing at least 60% alcohol for areas where handwashing facilities may not be available or practical.
Management must provide appropriate cleaning/ disinfection supplies for shared and frequently touched surfaces and encourage employees to use these supplies before and after use of these surfaces, followed by hand hygiene.

Management must conduct regular cleaning and disinfection of the areas open to the public and more frequent cleaning and disinfection for high risk areas used by many individuals and for frequently touched surfaces. Cleaning and disinfecting 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 facilities.

Management must ensure regular cleaning and disinfecting of restrooms. Restrooms should be cleaned more often depending on frequency of use.

Management must ensure distancing rules are adhered to by reducing restroom capacity where feasible.

Management must ensure that equipment is regularly disinfected using registered disinfectants, including at least as often as employees change workstations. Refer to the Department of Environmental Conservation (DEC) list of products registered in New York State 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 equipment, Management must put in place hand hygiene stations between use and/or supply disposable gloves and/or limitations on the number of employees using such equipment.

Management must provide for the cleaning and disinfection of exposed areas in the event of a positive case of COVID-19 of an employee, with such cleaning to include, at a minimum, all heavy transit areas and high-touch surfaces (e.g., vending machines, handrails, bathrooms, door knobs).

CDC guidelines on "Cleaning and Disinfecting Your Facility" if someone is suspected or confirmed to have COVID-19 infection are as follows:

- Close off areas used by the person who is sick.
- Management does not necessarily need to close operations, if they can close off the affected areas.
- Open outside doors and windows to increase air circulation in the area.
- Wait 24 hours before you clean or disinfect. If 24 hours is not feasible, wait as long as possible.
- Clean and disinfect all areas used by the person who is sick, such as offices, bathrooms, common areas, and shared equipment.
- Once the area has been appropriately disinfected, it can be opened for use.

Employees without close contact with the person who is sick can return to the work area immediately after disinfection.

Per CDC's "Evaluating and Testing Persons for Coronavirus Disease 2019 (COVID-19)," considerations when assessing close contact include the duration of exposure (e.g., longer exposure time likely increases exposure risk) and the clinical symptoms of the person with COVID-19 (e.g., coughing likely increases exposure risk as does exposure to a severely ill patient).

- If more than seven days have passed since the person who is sick visited or used the location, additional cleaning and disinfection is not necessary, but routine cleaning and disinfection should continue.

For activities involving the handling of shared objects, areas, and/or surfaces (e.g., doors), Management must ensure that such areas and objects are cleaned daily, at a minimum.

Management must prohibit shared food and beverages, encourage bringing lunch from home, and reserve adequate space for employees to observe social distancing while eating meals.

**Phased Reopening**

Management 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. Management should consider limiting the number of employees, hours, and number of members of the public able to enter the municipal facilities at the same time.
Communications Plan

- Management must affirm that they have reviewed and understand the State-issued guidelines, and that they will implement them.
- Management should develop a communications plan for employees and members of the public that includes applicable instructions, training, signage, and a consistent means to provide employees with information. Management may consider developing webpages, text and email groups, and social media.
- Management should encourage customers to adhere to CDC and DOH guidance regarding the use of PPE, specifically face coverings when a social distance of 6 feet cannot be maintained, through verbal communication and signage.
- Management should post signage inside and outside of the municipal buildings and facilities to remind employees and the public to adhere to proper hygiene, social distancing rules, appropriate use of PPE, and cleaning and disinfecting protocols.

Processes

Screening and Testing

- Management must implement mandatory daily health screening practices.
  - Screening practices may be performed remotely (e.g., by telephone or electronic survey), before the employee reports to the work location, to the extent possible; or may be performed on site.
  - Screening should be coordinated to prevent employees from intermingling in close contact with each other prior to completion of the screening.
  - At a minimum, screening should be required of all workers and essential visitors (but not members of the public) and completed using a questionnaire that determines whether the worker or visitor has:
    1. 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,
    2. tested positive for COVID-19 in the past 14 days, or
    3. has experienced any symptoms of COVID-19 in the past 14 days.

- According to CDC guidance on "Symptoms of Coronavirus," the term "symptomatic" includes employees who have the following symptoms or combinations of symptoms: fever, cough, shortness of breath, or at least two of the following symptoms: fever, chills, repeated shaking with chills, muscle pain, headache, sore throat, or new loss of taste or smell.
- Management 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.
- Daily temperature checks may also be conducted per Equal Employment Opportunity Commission or DOH guidelines. Management is prohibited from keeping records of employee health data (e.g., temperature data).
- Management must ensure that any personnel performing screening activities, including temperature checks, are appropriately protected from exposure to potentially infectious employees or visitors entering the municipal building or facility. 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 who screens positive for COVID-19 symptoms should not be allowed to enter the worksite and should be sent home with instructions to contact their healthcare provider for assessment and testing. Management must immediately notify the local health department and DOH about the suspected case. Management should provide the employee with information on healthcare and testing resources.
- An employee who has responded that they have had close contact with a person who is confirmed or suspected for COVID-19 may not be allowed to enter the work location without abiding by the
precautions outlined below and the Management has documented the employee's adherence to those precautions.

- Management must review all employee and visitor responses collected by the screening process on a daily basis and maintain a record of such review. Management must also identify a contact as the party for employees to inform if they later are experiencing COVID-19-related symptoms, as noted in the questionnaire.

- Management must designate a site safety monitor whose responsibilities include continuous compliance with all aspects of the site safety plan.

- To the extent possible, Management should maintain a 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. 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. Management must cooperate with local health department contact tracing efforts.

- Management cannot mandate that customers complete a health screen or provide contact information but may encourage customers to do so. Management may provide an option for customers to provide contact information so they can be logged and contacted for contact tracing, if necessary.

- Employers and employees should take the following actions related to COVID-19 symptoms and contact:
  - If an employee has COVID-19 symptoms AND EITHER tests positive for COVID-19 OR did not receive a test, the employee may only return to work after completing a 14-day self-quarantine. If an employee is critical to the operation or safety of a facility, the Management may consult their local health department and the most up-to-date CDC and DOH standards on the minimum number of days to quarantine before an employee is safely able to return to work with additional precautions to mitigate the risk of COVID-19 transmission.
  - If an employee does NOT have COVID-19 symptoms BUT tests positive for COVID-19, the employee may only return to work after completing a 14-day self-quarantine. If an employee is critical to the operation or safety of a facility, the Management may consult their local health department and the most up-to-date CDC and DOH standards on the minimum number of days to quarantine before an employee is safely able to return to work with additional precautions to mitigate the risk of COVID-19 transmission.
  - If an employee has had close contact with a person with COVID-19 for a prolonged period of time AND is symptomatic, the employee should notify Management and follow the above protocol for a positive case.
  - If an employee has had close contact with a person with COVID-19 for a prolonged period of time AND is NOT symptomatic, the employee should notify Management and adhere to the following practices prior to and during their work shift, which should be documented by Management:
    1. Regular monitoring: As long as the employee does not have a temperature or symptoms, they should self-monitor under the supervision of their employer's occupational health program.
    2. Wear a mask: The employee should wear a face mask at all times while in the workplace for 14 days after last exposure.
    3. Social distance: Employee should continue social distancing practices, including maintaining, at least, six feet distance from others.
    4. Disinfect and clean work spaces: Continue to clean and disinfect all areas such as offices, bathrooms, common areas, and shared electronic equipment routinely.
  - If an employee is symptomatic upon arrival at work or becomes sick during the day, the employee must be separated and sent home immediately, following the above protocol for a positive case.

**Tracing and Tracking**

- Management must notify the local health department and DOH immediately upon being informed of any positive COVID-19 test result by a worker at their site.

- In the case of an employee, visitor, or customer who interacted at the business testing positive, Management must cooperate with the local health department to trace all contacts in the workplace.
and notify the health department of all employees logged and visitors/customers (as applicable) who entered the work location dating back to 48 hours before the employee began experiencing COVID-19 symptoms or tested positive, whichever is earlier, but maintain confidentiality as required by federal and state law and regulations.

- Local health departments will implement monitoring and movement restrictions of infected or exposed persons including home isolation or quarantine.
- Employees 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 all required protocols as if they had been exposed at work.

Posting of Safety Plans
Management must conspicuously post completed safety plans on site.

Additional safety information, guidelines, and resources are available at:
- Occupational Safety and Health Administration COVID-19 Website https://www.osha.gov/SLTC/covid-19/