Life After Lockdown: Helping Your Community Adjust to the New Normal

State officials have begun easing the most restrictive of the COVID regulations. But what life will look like as we enter summer and head into fall is not yet clear. Moreover, as the prevalence of the virus ebbs and flows, communities may see changes in regulation from the State or their county health departments. And until a vaccine or other treatment is developed and mass produced, people’s day-to-day activities will be substantially altered. Social distancing, enhanced cleaning and disinfecting, and other changes in personal behavior will become the norm for months.

As businesses open back up, they will have to implement virus mitigation measures that will be disruptive to their normal business plans and operations but which will be necessary to minimize the impact the unchecked spread of the COVID-19 virus would have on our economy and healthy daily life. Local governments will play a key role in making this transition as seamless and safe as possible. The following are just a few items local government officials should consider to prepare for life after lockdown.

**New York’s Phased, Regional Re-Opening**
Governor Cuomo has announced that the re-opening of society and our economy will happen in a phased, regional approached. Information regarding this policy can be found online at https://forward.ny.gov. In a nutshell, the restrictions will be lifted on a regional basis once certain COVID-related metrics (e.g., COVID hospitalizations and positive COVID tests) are reached. Within each region, businesses will be allowed to reopen in the following phases:
As the current government-imposed restrictions are eased, they will invariably be replaced with different restrictions, and local officials will be on the front line of enforcing these new and changing restrictions.

To assist in complying with these new regulations, local officials may wish to consider adopting a helping hand approach as opposed to a strong enforcement approach.

This is not to argue that the threat of enforcement will never need to be used. However, for the vast majority of instances where local officials find violations of pandemic regulations, the approach likely to be the most cost-effective for achieving compliance and a positive result is an educational approach.

Local officials may wish to implement some or all of the following measures to facilitate outreach to their local businesses:

- Establish a small business advisory board that meets regularly, shares successes and challenges, and identifies ways in which local officials can be most helpful to local restaurants, retail establishments, and landlords;
- Launch an education campaign to provide up-to-date information about State and locally-mandated restrictions; local officials should promote the information on their website and social media accounts, as well as holding press conferences to disseminate information;
- Supply police and code enforcement officers with educational pamphlets that can be distributed to businesses, property owners, and the general public;
- Offer online or in-person training to the public and businesses about what is and is not allowed under the social distancing regulations; and
- Have local officials make in-person contacts so that businesses hear directly from local officials and have a point of contact with the municipality if they have questions or concerns about COVID-related issues.

Even during normal times, violations of regulations is often attributable to ignorance. In these confusing times, when the COVID-related regulations are changing on a weekly, if not a daily basis, confusion among business owners about what is and what is not allowed is common. Any steps local officials can take to assist the community in complying with State and local regulations are likely to be much more effective than the threat of enforcement, particularly as many businesses are simply struggling to survive.

The Partner America Program
While local officials can help educate their communities about the applicable government regulations, local officials are generally not equipped to offer advice to local entrepreneurs on how to operate their businesses. Luckily, Partnership America is a public-private partnership that was created by the United States Conference of Mayors and American Management Services, Inc (AMS) in 1999 with the goal of helping small and medium-sized businesses in cities

The State is posting its detailed reopening guidance online. Local officials and businesses should check https://forward.ny.gov/often to stay up-to-date with the latest information.

Mandatory Business Precautions
Even when businesses are allowed to reopen, every business must have a plan in place prior to reopening to (a) protect employees and consumers, (b) make the physical work space safer, and (c) implement processes that lower risk of infection in the business. These business plans must address the following issues:

1. Adjusting workplace hours and shifts to reduce workplace density;
2. Enacting social distancing protocols;
3. Restricting non-essential travel for employees;
4. Requiring all employees and customers to wear masks if in frequent contact with other individuals;
5. Implementing strict cleaning and sanitation practices;
6. Enacting a continuous health screening process for individuals entering the workplace;
7. Tracing, tracking and reporting COVID cases; and
8. Developing liability processes.

The guidance regarding this re-opening process will undoubtedly evolve and become more detailed. Local officials should continuously check State websites and www.nycom.org for updated information.

A Helping Hand Versus the Enforcement Stick
Local Officials as Educators
Enforcement of the Governor’s Executive Orders has already fallen largely to local officials. Given the lack of activity during the lockdown, enforcement has been relatively easy, requiring a nominal amount of enforcement from local police and code enforcement.

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improve profits and sales through management assistance. The Partner America program (www.partneramerica.us) “is designed to assist Mayors in providing the resources and information small businesses need to thrive within their local communities and global economy.”

The U.S. Conference of Mayor’s Small Business Assistance Program launched a Coronavirus Pandemic Response initiative which provides individual business assistance to small business owners. Specifically, business owners are connected with experts who can help the businesses access federal, State, and local funding and develop COVID response strategies, including personnel management, operations, and liquidity. Business owners can contact Partner America representatives at (855) 876-5561.

Local officials should also make sure that local businesses are aware of the resources available from the U.S. Small Business Administration (www.sba.gov), New York State Empire State Development (https://esd.ny.gov), the U.S. Chamber of Commerce (www.uschamber.com/coronavirus), and the National Restaurant Association (https://restaurant.org/covid19).

Reexamining Local Regulations to Help Businesses Implement New Social Distancing Business Models
As the most restrictive isolation measures are removed and society starts to transition to a life living with COVID-19, local officials should be prepared to work with businesses and property owners to accommodate their needs.

Local regulations that were designed and intended for pre-COVID society may need to be reexamined and modified, if only temporarily, to allow businesses to operate in a way that helps mitigate against the spread of COVID-19. Operating a restaurant or retail business by implementing socially distant measures is likely to prove extremely challenging. Even under the best of circumstances, the operating margins in the restaurant industry are thin. While the specific social distancing regulations for reopening businesses and restaurants remain to be announced, some preliminary estimates are that restaurants will have to operate at as little as 50 or 25 percent of their normal seating capacity to comply with CDC and Department of Health recommended distancing requirements. Whether such arrangements will even be viable is unclear.

Nevertheless, local officials may wish to begin consulting with their local businesses to see what changes can be made to local regulations, even if only during the pandemic, to allow those businesses to operate in a more viable manner. For example, allowing merchants to use sidewalks may be one option to give businesses more space to sell items or serve patrons.

Local officials should also review parking regulations to see what changes are necessary to allow businesses to facilitate delivery and takeout pickup. While some businesses may wish to have on-street parking in front of their establishments limited to delivery and takeout pickup, other businesses may be interested in converting the street space in front of their stores into space for restaurant tables or display racks or as the new sidewalk so that the existing sidewalk space can be used by the adjacent businesses.

Cities around the world have already started implementing such changes. Vilnius, Lithuania announced plans to turn the city into one large open-air café. The City is both relaxing the rules regarding outdoor dining (although social distancing will still need to be maintained) and waiving the fee normally charged.

Accommodating local businesses is not without potential pitfalls. Local officials should be careful to consider the unintended consequences of allowing local businesses to operate in different ways. For example, allowing businesses to operate on sidewalks, on the street, or in parking lots may generate complaints from nearby businesses and residents about
noise and loss of parking. Moreover, municipalities should consider the potential impact such uses would have on public accessibility, ADA compliance, and municipal liability.

In addition, absent an Executive Order to the contrary, businesses will still need to comply with the State’s Uniform Fire Prevention and Building Code. Outdoor seating arrangements will have to be approved by local code enforcement officers.

Consequently, local officials should convene a task force of all the relevant stakeholders (local, county, and State) to ensure that potential unintended consequences are addressed beforehand.

Quality of Life - Rethinking Our Streets
The need to reexamine local regulations is not limited to those rules impacting businesses. To provide more space, municipalities across the globe are temporarily blocking off streets to vehicular traffic. Known as #COVID19Streets, local officials are pedestrianizing streets, closing streets to vehicles by placing barricades and signage. The street closings (or as some advocates are branding it #OpenStreets) are taking various forms with some communities blocking off entire streets while others are blocking off part of the street (either travel or parking lanes) to allow for pedestrian use or to create temporary bike lanes.

Residents are clamoring to get out of their homes, and maintaining social distance is proving to be a challenge as sidewalks become clogged with walkers, joggers, strollers, and kids playing. As a result, local governments are repurposing the municipal infrastructure to accommodate this demand. Mike Lydon, internationally recognized planner and author of The Open Streets Project and Tactical Urbanism, has noted, “The threat of coronavirus transmission has inspired cities large and small to harness their streets to deliver quick, low-cost physical distancing interventions that make essential travel and physical exercise less risky.” In addition, Mr. Lydon has been documenting the emerging repurposing of streets to pedestrian use and is sharing that information online in an open Google Sheet available at https://bit.ly/COV-ID19_Livable_Streets_Responses.

The innovation in rethinking how we can and should be using our streets during the pandemic is occurring across the globe. Montpellier, France converted four-lane roads into two-lane roads and two bike paths. Scotland is providing funding to allow local governments to create new “pop up” wide pavements and cycle paths to help accommodate the estimated 35 percent increase in bicycling during the pandemic.

Here in the United States, Portland, Oregon launched a “Slow Streets Safe Streets” initiative that (a) will create 100 miles of neighborhood greenways (quiet residential streets) that will prioritize safety and comfort for people walking and biking, (b) will expand pedestrian space along streets that narrow or missing sidewalks, (c) provide more room for social distancing at high foot traffic intersections, and (d) install pop-up walking and biking lanes on busy streets. These changes were made in part because car trips had decreased by almost 50 percent in the City, but at the same time, speeding has risen by almost 33 percent.

And in Minneapolis, the City has converted 32 miles of roads as part of its Stay Healthy Streets initiative, expanded sidewalks in front of essential services, and automated hundreds of walk signals to make intersections more pedestrian friendly.

In New York, repurposing municipal streets, even if only for the duration of the COVID pandemic, requires approval of the village board of trustees, the city council, or other agency empowered to regulate municipal streets. Local officials interested in opening their streets should consult the National Association of City Transportation Officials’ Streets for Pandemic and Recovery publication, which is available to download for free at https://nacto.org/streets-for-pandemic-response-recovery/.

Conducting Municipal Business During the Pandemic
Local officials are finding themselves in situations where conducting business that is essential for the continuation of municipal operations and complying with the technical procedural requirements of State law is impossible in light of public health considerations. Person-to-person contact is a staple of local government operations. Whether it be residents coming in to city or village hall to pay bills, appear in court, or attend meetings of the city council, village board of trustees, planning board, or zoning board of appeals, local government business is a people-oriented business.

Consequently, local officials will need to be creative in
finding ways to continue to serve their residents, businesses, and property owners while at the same time (a) protecting the health of the public and the municipal employees and (b) mitigating against the spread of the virus. Municipal officials should consider making the following changes to local government operations:

- Reconfiguring municipal offices to allow people to be socially distant;
- Cleaning municipal facilities more extensively and more frequently;
- Limiting the number of individuals who may enter municipal offices at any given time;
- Placing social distancing markers in appropriate locations;
- Posting signage informing individuals about the applicable rules and urging individuals who have recently been exposed to someone known or suspected of being infected with COVID-19, are feeling unwell, or are showing symptoms of COVID-19 infection themselves should not enter municipal facilities; and
- Establishing seniors-only office hours to accommodate the more vulnerable members of the community.

While local governments are likely to be authorized to resume in-person activities, so long as adequate social distancing measures are adhered to, municipal officials and their residents may be interested in the local government implementing not merely the minimum recommended social distancing practices, but best practices. For example, whether or not the Governor extends the authorization for local governments to conduct meetings without allowing the public to attend in person, local officials may wish to consider conducting meetings via videoconferencing pursuant to the requirements of the New York State Open Meetings Law. Nothing in State law precludes local officials from offering online viewing of meetings or online commenting at meetings or public hearings. Note, however, that absent an executive order from the Governor, the Open Meetings Law would still mandate that public bodies allow the public to attend their meetings in person.

Moreover, cities and villages may wish to consider introducing or expanding the services they provide remotely, such as online payments, to reduce the need for individuals to physically come to city or village hall.

Conclusion
These are unprecedented times. There is no model for how to navigate a pandemic of this nature and the resulting economic impacts. Consequently, local officials need to be nimble and creative to respond to the rapidly changing legal and economic environment. Now, more than ever, local officials should be prepared to lead their communities.

For more information on reopening guidance, please contact NYCOM General Counsel Wade Beltramo at (518) 463-1185 or by email at wade@nycom.org.