

## NEW YORK – Back to Business Orders COVID-19 New York Forward and Cluster Zone Strategy (updated through 11/23/20)

All Executive Orders  
<https://www.governor.ny.gov/executiveorders>

New York Forward Website:  
[NY Forward Website](#)

Empire State Development Website:  
<https://esd.ny.gov/>

Also see NY Forward: [A Guide to Reopening New York](#)

Also see ESD [Cluster Zone Guidance](#)

GENERAL TOPIC	SUMMARY	SECTION #
Effective dates	Phase One (EO 202.31): As of 12:01 AM on May 15, 2020 for certain regions. Phase Two (EO 202.35): As of 1:00 PM on May 28, 2020 for certain regions. Phase Three (EO 202.41): As of June 12, 2020 for certain regions. Phase Four (EO 202.45): As of July 20, 2020 all regions are in Phase Four. Effective 10/9/20, under EO 202.68, the Department of Health (DOH) was directed to determine “cluster zones” in the State that require enhanced public health restrictions.	EO 202.31, EO 202.35, EO 202.41 EO 202.45 EO 202.68  <a href="#">NY Forward Website</a>  <a href="#">Cluster Zone Guidance</a>
General Overview	Initially, the executive orders implemented 4 phases of the state’s regional reopening plan. Different phases of industries were permitted to reopen in regions which satisfied the required <a href="#">health metrics</a> . All regions were in Phase 4 in late July, 2020. After all regions had reopened to Phase 4, effective 10/9/20, under <a href="#">Executive Order 202.68</a> , the Department of Health (DOH) was directed to determine “cluster zones” in the State that require enhanced public health restrictions. Three zones (Red, Orange,	EO 202.31, EO 202.35, EO 202.41 EO 202.45 EO 202.68

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	Yellow) were established, and different restrictions were imposed for the zones. The zone designations and zone restrictions can change on a constant basis, depending on cases within a region. See zone designations and requirements at <a href="#">NY Forward Website</a>	<a href="#">NY Forward Website</a>  <a href="#">Cluster Zone Guidance</a>
Shelter in Place - Modifications	The Executive Orders constituting “New York on PAUSE” continue in full effect until amended or modified. These orders did not mandate individuals to stay at home, but focused on gathering restrictions. See below for restrictions on gatherings.	EO 202.31, EO 202.35, EO 202.41 EO 202.45 <a href="#">NY Forward Website</a>  <a href="#">Cluster Zone Guidance</a>
Phased Reopening of Businesses; Cluster Zones	Per the NY Forward Plan, each region reopened businesses in phases, with at least two weeks in between each phase. The following is a breakdown of the industries permitted to re-open in each phase: <u>Phase One:</u> <ul style="list-style-type: none"> <li>• Construction</li> <li>• Agriculture, Forestry, Fishing and Hunting</li> <li>• Retail - (Limited to curbside or in-store pickup or drop off)</li> <li>• Manufacturing</li> <li>• Wholesale Trade</li> </ul> <u>Phase Two:</u> <ul style="list-style-type: none"> <li>• Professional Services</li> <li>• Finance and Insurance</li> <li>• Retail</li> <li>• Administrative Support</li> <li>• Real Estate, Rental and Leasing</li> </ul> <u>Phase Three:</u> <ul style="list-style-type: none"> <li>• Restaurants and Food Services</li> </ul>	<a href="#">A Guide to Reopening New York</a>  <i>See also</i> <a href="#">Industries Reopening by Phase</a>

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	<ul style="list-style-type: none"> <li>Personal Care Services</li> </ul> <p><u>Phase Four:</u></p> <ul style="list-style-type: none"> <li>Arts, Entertainment, and Recreation</li> <li>Education</li> </ul> <p>The New York Forward Business reopening Lookup Tool is designed to help you determine whether or not your business is eligible to reopen, and the public health and safety standards with which your business must comply. The Tool is available <a href="#">here</a>.</p> <p><u>Cluster Zones.</u> Effective 10/9/20, different areas may be designated as Red, Orange and Yellow cluster zones. Different restrictions are imposed on businesses and activities in different zones.</p> <p>-- <u>Red Zone.</u> All non-essential businesses are required to close to the public.</p> <p>-- <u>Orange Zone.</u> Certain high-risk non-essential businesses (eg., gyms, fitness centers and classes, barber shops, hair salons, personal care services) are closed.</p> <p>-- <u>Yellow zone.</u> Businesses open.</p> <p>Cluster zone designations and restrictions may change from time to time. See <a href="#">NY Forward Website</a> for designations and restrictions</p>	<p>See zones and zone restrictions in <a href="#">NY Forward Website</a> and <a href="#">Cluster Zone Guidance</a></p>
Statewide Guidelines	<p>Statewide guidelines are established for:</p> <ol style="list-style-type: none"> <li>Childcare and day camps</li> <li>Beaches</li> <li>Religious and funeral services</li> <li>Racing</li> <li>Dentistry</li> <li>Professional sports</li> <li>Public and private transportation</li> <li>Sports and recreation</li> <li>Trades and private schools</li> </ol>	<p>See <a href="#">Statewide Guidelines</a></p>
Facemask Requirements	<p>Facemask requirements were implemented starting April 17, 2020, under <a href="#">Exec. Order No. 202.17</a> and subsequent executive orders.</p>	<p>EO 202.17 EO 202.18 &amp; EO 202.39</p>

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	<p>Effective 10/7/20, facemask requirements were formally incorporated as part of the DOH regulations. <a href="#">Regs 66-3.2</a>:</p> <p>(a) Any person who is over age two and able to medically tolerate a face-covering shall be required to cover their nose and mouth with a mask or face-covering when in a public place and unable to maintain, or when not maintaining, social distance.</p> <p>(b) Any paying passenger of a public or private transportation carrier or other for-hire vehicle, who is over age two and able to medically tolerate a face covering, shall wear a mask or face-covering over the nose and mouth during any such trip; any employee of such public or private transportation carrier who is operating such public or private transport, shall likewise wear a mask or face-covering which covers the nose and mouth while there are any paying passengers in such vehicle.</p> <p>(c) Any employee who is present in the workplace shall be provided and shall wear a mask or face-covering when in direct contact with customers or members of the public, or when unable to maintain social distance. Businesses must provide, at their expense, such face coverings for their employees.</p> <p>(d) Business operators and building owners, and those authorized on their behalf or otherwise authorized to use the building shall deny admittance to any person who fails to comply with this section and shall require or compel such persons' removal. Provided, however, that this regulation shall be applied in a manner consistent with the federal American with Disabilities Act, New York State or New York City Human Rights Law, and any other applicable provision of law.</p>	DOH <a href="#">Regs 66-3.2</a>
Gatherings	<p><u>Earlier Phases</u>. Different gathering requirements were established for different phases, ranging from 10 to 25 to 50 persons. See <a href="#">Exec. Order No. 202.33</a>, <a href="#">Exec. Order 202.42</a>, and <a href="#">Exec. Order No. 202.38</a></p> <p><u>Phase 4</u>. For Phase 4, effective July 26, 2020, non-essential gatherings of up to 50 people are permitted in regions in Phase 4, so long as any gatherings indoors do not exceed 50% capacity. for houses of worship at no greater than 25% of the indoor capacity of such location are permitted, provided such house of worship is in a geographic area in Phase 2 of re-opening. See <a href="#">Exec. Order No.</a></p>	EO 202.33, EO 202.38 EO 202.42  EO 202.45

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	<p><a href="#">202.45</a></p> <p><u>Cluster Zones.</u> Effective 10/9/20, different gathering requirements will apply to Red, Orange, and Yellow Zones.</p> <ul style="list-style-type: none"> <li>-- Red – No non-essential gatherings</li> <li>-- Orange – Non-essential gatherings limited to 10 people</li> <li>-- Yellow – Non-essential gatherings limited to 25 people</li> </ul>	<p>See <a href="#">NY Forward Website</a> and <a href="#">Cluster Zone Guidance</a></p>
Impact on Other Orders	Each of the reopening orders refers to prior orders that are superseded by the reopening orders, to the extent inconsistent. Please refer to the various reopening orders for details.	EO 202.31, EO 202.35, EO 202.36, EO 202.38, EO 202.39 EO 202.68
Travel Restrictions	<p>Per a 6/24/20 press release, persons entering NY from certain states will be required to self-quarantine for 14 days. The states are described as “any state where 10 of every 100,000 people test positive on a rolling seven-day basis, or where the positivity rate in the total population is 10 percent, also on a seven-day rolling basis.”</p> <p>Effective July 24, 2020, all travelers entering New York from a state with a positive test rate higher than 10 per 100,000 residents, or higher than a 10% positivity rate, over a seven day rolling average, will be required to quarantine for 14 days after arriving in New York. <a href="#">Exec. Order 202.5.</a></p> <p>See updated DOH guidance 10/8/20 and 11/3/20. These provide that travel is permitted from contiguous states (Pennsylvania, New Jersey, Connecticut, Massachusetts and Vermont). For travel from ANY non-contiguous states, or from any CDC Level 2 or Level 3 Health Notice country, there are mandatory 14 day quarantine requirements, with certain exceptions. For travelers who traveled outside of New York for more than 24 hours, such travelers must obtain testing within 72 hours prior to arrival in New York, and must quarantine for a minimum of three days, measured from time of</p>	<p><a href="#">Travel Press Release</a></p> <p>EO 202.5</p> <p><a href="#">DOH Interim Travel Guidance</a></p>

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	arrival, and on day 4 may seek a second diagnostic test to exit quarantine.	
Additional Guidance	See <a href="#">Empire State Development: Reopening Resources for Businesses</a> See the <a href="#">FAQs</a> , issued by the NYS Department of Economic Development d/b/a Empire State Development (ESD) on New York Forward and Business Reopening See <a href="#">NY Forward Website</a> and <a href="#">Cluster Zone Guidance</a>	
APPENDIX AND DEFINITIONS (SUMMARY)		
Metrics to Guide Reopening	The four core factors that state and local officials are monitoring to determine if a region can begin to reopen are: <ul style="list-style-type: none"> <li>• The infection rate is sufficiently low;</li> <li>• The health care system has the capacity to absorb a potential resurgence in new cases;</li> <li>• Diagnostic testing capacity is sufficiently high to detect and isolate new cases; and</li> <li>• Robust contact-tracing capacity is in place to help prevent the spread of the virus.</li> </ul>	<a href="#">A Guide to Reopening New York</a>
Standards for Reopened Businesses/Industries	All businesses, <b>including essential businesses</b> , must develop a COVID-19 Health and Safety Plan (a “Business Safety Plan”). Businesses can utilize the NY Forward Business re-Opening Safety Plan Template, a copy of which available <a href="#">here</a> , to satisfy the requirement.  The business’s COVID-19 Health and Safety Plan should include the ways in which the business intends to comply with the state issued guidance aimed to prevent the spread of COVID-19. Business owners should also refer to the state’s industry-specific guidelines (see below) for more information on how to safely operate.  <a href="#">Construction Summary Guidelines</a> <a href="#">Non-Food Related Agriculture Summary Guidelines</a> <a href="#">Forestry Summary Guidelines</a> <a href="#">Fishing Summary Guidelines</a> <a href="#">Curbside and In Store Pick Up Retail Summary Guidelines</a> <a href="#">Manufacturing Summary Guidelines</a>	<a href="#">A Guide to Reopening New York</a>

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	<a href="#">Wholesale Trade Summary Guidelines</a> See other guidelines posted on the <a href="#">NY Forward Website</a>	
Social Distancing Requirements	All business shall, to the extent possible, adhere to social distancing recommendations, enhanced sanitizing practices on common surfaces, and other appropriate workplace guidance from state and federal authorities while in operation.	

**DISCLAIMER:** *This information is provided for convenience only, and should not be relied upon in making decisions for your business. As this is a rapidly changing area, reference should always be made to the official order and related interpretative guidance. If you have specific questions about how any particular jurisdiction's Order affects your business, or other COVID-19 topics, please contact a member of the Holland & Knight's COVID-19 Response Team – State and Local Orders and Regulations.*

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