



May 22, 2020

**As we continue to navigate the COVID-19 crisis together, please continue reaching out to us as issues arise for you and for your businesses. We are and will continue to remain in regular contact with key stakeholders at the State Agencies and with the Administration to advocate on your behalf. Below please find updates and new information since our last update.**

#### WHAT'S NEW TODAY

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

Senate Majority Leader Andrea Stewart-Cousins and Assembly Speaker Carl Heastie released the below joint statement on holding session next week to address COVID-19 related legislation.

*“Assembly Speaker Carl Heastie and Senate Majority Leader Andrea Stewart-Cousins today announced the Legislature plans to convene session next week to pass legislation related to the COVID-19 pandemic. Committee meetings are scheduled to take place on Tuesday, May 26, with session scheduled for the days following. In the interest of public safety, strict social distancing measures will be in effect and temporary rule changes adopted earlier this year will continue to be utilized. Proceedings will take place using web-based teleconference and video conference.”*

##### **Governor Cuomo Press Briefing**

- The Governor stumped the press corps with a trivia question: where was the first Memorial Day celebration? The answer is Waterloo, New York in Seneca County in 1866.



- The total number of hospitalizations and intubations continue to fall. The number of new hospitalizations decreased slightly but has remained relatively flat. There were 225 new hospitalizations on May 21<sup>th</sup>, which is lower than the rate when the crisis started.



- There were a total of 109 COVID-19-related deaths on May 21<sup>th</sup>. Of these, 82 were hospital deaths and 27 were in nursing homes. A total of 23,083 New Yorkers have passed away from coronavirus (NYSDOH).



- **REOPENING:** If deaths continue to decline and contract tracing increases, the Long Island and Mid-Hudson regions will be eligible to begin phase one of reopening next

week. Currently, Long Island has met four of the seven metrics and the Mid-Hudson region has met five of the seven metrics. The State is projecting both regions will meet the remaining metrics in the coming days. The Hudson Valley region includes Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester counties. The Long Island region includes Nassau and Suffolk counties. Phase one of reopening includes the construction, agriculture, forestry, fishing and hunting, retail (limited to curbside or in-store pickup or drop off), manufacturing, and wholesale trade industries.



- In preparation for phase one construction starting next week, the Long Island and Mid-Hudson regions will be permitted to begin construction staging now.



- The State now has 750 testing sites with more testing capacity than the public is currently using. The Governor urged anyone who is experiencing symptoms to get tested. The State is launching a pilot program in 52 independent pharmacies to conduct an additional 7,000 tests per week.



- The State is starting a \$100 million small business relief program to distribute loans to businesses with 20 or fewer employees and less than \$3 billion in revenue. The program, called the “New York Forward Loan Fund (NYFLF),” will distribute funds to businesses and nonprofits that have not received a loan from either SBA Paycheck Protection Program (PPP) or SBA Economic Injury Disaster Loan (EIDL) for COVID-19 in 2020. Small businesses can apply to receive funds [here](#); pre-application begins at noon on May 26th.



- A reporter asked the Governor if the State should allow legalization of marijuana and mobile sports betting. The Governor said he supports legalization of marijuana and would support it being enacted if it can be done correctly. He said it “complicated issue that has to be done in a comprehensive way.” The reporter then asked about allowing mobile sports betting and the Governor said “same thing.”
- A reporter asked about New York City changing the metrics the City needs to meet to reopen. The Governor said that he is in constant communication with City officials, that the metrics the State has adopted will determine when regions can reopen, and that the State and City follow the same metrics.

### [Executive Order 202.23](#)

The Executive Order extends the suspensions and modifications of law, and any directives, not superseded by a subsequent directive, made by Executive Orders 202.23 through

202.27, for thirty days until June 20, 2020. It also extends by twenty-one days the period for paying, without interest or penalty, property taxes for an affected county, city, town, village or school district whose chief executive officer has requested an extension.

The Executive Order issues the following directives through June 20, 2020:

- Any licensee or franchisee of a racetrack in the State is permitted to operate as of June 1, 2020 provided no visitors or fans are allowed into the facility, and the track allows on site only essential personnel who adhere to any directive or guidance issued by the Department of Health and/or by the Gaming Commission.
- Permits a gathering of ten or fewer individuals for any religious service or ceremony, or for the purposes of any Memorial Day service or commemoration, provided that social distancing protocols and cleaning and disinfection protocols required by the Department of Health are adhered to, and provided further, that any drive-in or remote religious service may continue in excess of the ten person limit so long as there is no in-person contact between participants. Vehicle caravans are permitted.
- The authority of the Commissioner of Taxation and Finance to abate late filing and payment penalties pursuant to section 1145 of the Tax Law is hereby expanded to authorize abatement of interest and penalties for a period of up to 100 days for taxpayers who were required to file returns and remit sales and use taxes by March 20, 2020, for the sales tax quarterly period that ended February 29, 2020.

The Executive Order also makes the following modifications:

- Allows clinical laboratories to accept and examine specimens for COVID-19 testing, from personnel of nursing homes and adult care facilities, as such personnel are defined in Executive Order 202.30, without a prescription or order from an authorized ordering source.
- Allows physicians to order COVID-19 tests, authorized by the U.S. Food and Drug Administration (FDA) for self-collection, without otherwise having an initial physician-patient relationship with the patient.

The Executive Order suspends or modifies the following provisions included in [Executive Order 202.22](#) through June 20, 2020, unless an earlier date is specified below:

- Allows tentative assessment rolls that are to be filed on or before June 1, 2020 to be filed up to 30 days later than otherwise allowable; allows for an assessing unit to set a date for hearing assessment complaints that is at least 21 days after the filing of the tentative roll; allow notice of the filing of the tentative roll to be published solely online so long as the date for hearing complaints is prominently displayed; suspends in-person inspection of the tentative roll; allows local Boards of Assessment Review

to hear complaints remotely by conference call or similar service, provided that complainants can present their complaints through such service and the public has the ability to view or listen to such proceeding.

- Allows the NYS Commissioner of Taxation and Finance to certify the final State equalization rate, class ratios, and class equalization rates no later than ten days prior to the last date set by law for levy of taxes of any municipal corporation to which such equalization rate, class ratios, and class equalization rates are applicable.
- Allows the Westchester County Executive to negotiate with town supervisors or mayors, to accept a lesser percentage of taxes, special ad valorem levies or special assessments which are otherwise due on May 25th, provided that in no event shall any town or city be required to pay more than sixty percent. The Westchester County Executive is empowered to determine whether or not penalties for late payment or interest are able to be waived dependent on whether or not such town or city applies the Westchester County Executive's criteria for determining hardship due to COVID-19.
- Allows the supervisor of a town in Westchester County to waive payment of penalties for late payment of county and county district taxes up to July 15, 2020, and waive payment of penalties for late payment of town and town district taxes and assessments in the same manner, provided such town applies the Westchester County Executive's criteria for the determination of hardship due to COVID-19.
- Allows the mayor of a city in Westchester County to waive the payment of penalties for late payment of county and county district taxes, and to further waive payment of penalties for late payment of city and city district taxes and assessments in the same manner, provided such city applies the Westchester County Executive's criteria for the determination of hardship due to COVID-19.
- Allows the Nassau County Executive to extend until June 1, 2020, the deadline to pay without interest or penalty the final one-half of school taxes upon real estate in such county.

#### UP-TO-DATE GUIDANCE

- Empire State Development: [Guidance for Determining Whether a Business Enterprise is Subject to a Workforce Reduction Under Recent Executive Orders](#)
  - Since our last update the following changes were made:
    - ESD is no longer allowing businesses to seek a determination to be classified as “essential.”

- In the Recreation section the highlighted words below were added.
  - Marinas, boatyards, and recreational marine manufacturers, for ongoing marina operations and boat repair/maintenance, where such facilities adhere to strict social distancing and sanitization protocols. In regions that are not within the first phase of the state's regional reopening plan, use of such sites for the purposes of personal use or operation of boats or other watercraft is permissible, provided that no establishment offer chartered **motorized** watercraft services or **motorized boat** rentals. Restaurant activity at such sites are limited to take-out or delivery only.
- The below new section was added.
  - Pursuant to Executive Order 202.10, all non-essential gatherings of individuals of any size for any reasons (e.g. parties, celebrations, or other social events) are canceled or postponed. However, Executive Order 202.32 allows ten or fewer people to gather for a religious service or ceremony, provided that social distancing protocols and cleaning and disinfection protocols required by the Department of Health are adhered to, and provided further, that any drive-in or remote religious service may continue in excess of the ten person limit so long as there is no in-person contact between participants. Faith leaders should continue to consider and use alternative forms of worship, replacing in-person gatherings with virtual services, such as phone or conference calls, videoconference calls, or online streaming, wherever possible, and congregations of groups for religious service or ceremony in excess of ten in-person participants remain prohibited.
- New York City: [Agency Suspensions and Reductions](#)
  - There have been no changes since our last update.

Attached please find a comprehensive document with guidance from across government agencies. We will be updating this document as information becomes available and including it in our daily updates.

In addition to our regular email updates, Ostroff Associates has established two dedicated webpages that will be updated in real time with any new information from government sources relating to COVID-19. Please use these websites as a resource and share with others who would benefit.

Update Page: <https://www.ostroffassociates.com/covid-19-updates/>

News Page: <https://www.ostroffassociates.com/category/covid-19/>

Please let us know if you have any questions or concerns.

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