

COVID-19 Reopening Guidelines for New York Restaurateurs

Legal Recommendations for Foodservice Operators



COVID-19 Reopening Guidance for Restaurants and Foodservice

by James Henry Dunne, Esq.

Finally! Some New York restaurants will begin the process of reopening for limited indoor table service. On June 3, New York's Governor had announced that outdoor seating at some restaurants would be permitted in Phase 2. With Phase 3 approaching on June 12, indoor seating is now set to begin. To view NYS Phase 3 guidelines, click [here](#).

Regulations have been issued that outline the safety measures that will need to be put in place to protect restaurant employees and guests. 'Mandatory Requirements' as well as recommended 'Best Practices' outlined by NYS can be viewed [here](#).

In addition, restaurateurs must create a Safety Plan. NYS has formulated a full 'Reopening Safety Plan Template' that can be viewed [here](#).

Important Note: All restaurants must read and affirm the 'Interim Guidance for

Foodservice' issued by NYS before reopening. To fulfill this requirement, you can review the Interim Guidance document and make your formal affirmation [here](#).

Some Highlights of the Guidance Include:

- Indoor capacity is limited to no more than 50% of the maximum occupancy for an area as set by the certificate of occupancy (this does not include employees).
- Indoor and outdoor tables with seating for guests must be separated by a minimum of 6 feet in all directions.
- All individuals sitting at a table must be in the same party.
- Maximum of 10 people per table.
- 6 feet must be maintained between guests at indoor and outdoor bars.
- Patrons must wear face coverings at all times that they are not seated.
- 6 feet must always be maintained among workers, unless the core activity requires a shorter distance (for example - cooking, cleaning, clearing tables, maintenance, etc.).
- All employees must always wear an acceptable face covering.
- Cloth, disposable, or other homemade face coverings are not acceptable face coverings for workers that typically require a higher degree of protection for personal protective equipment (PPE). For those activities, N95 respirators or PPE used under existing industry standards should continue to be used.
- Additional 'Interim Guidance for Foodservice' requirements listed [here](#).

Please remember that where guidance in any previously issued NYS document differs from other more recent guidance documents issued by NYS regarding the same COVID related subject matter, the more recent guidance shall apply.

In addition to the NYS requirements and guidelines noted above, restaurants must continue to comply with the directives for maintaining clean and safe work environments issued by the Department of Health. Furthermore, no food service operation can occur without also meeting the applicable federal requirements, including but not limited to such minimum standards of 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).

*** For counsel to ensure adherence to NYS guidelines, and for assistance drafting an Employee Health Survey, Guest Health Acknowledgement, and your Response Plan,**

please reach out to my office for a consultation, whether in-person, by phone or via virtual video chat.

Wishing you health and success,

jhd

James Henry Dunne, Esq. is available to provide a comprehensive risk assessment and review of your organization to ensure legal compliance across a broad spectrum of areas, from the NYS Hospitality Industry Wage Order / payroll review, to the new NYS mandatory sexual harassment training requirements, responsible alcohol service, employee manual drafting, event / catering contracts, partnership agreements, and much more.

Disclaimer: The synopsis above is not exhaustive. Each employer has unique needs and operates differently based on location. You should consult with an attorney for a comprehensive review and analysis of whether or not you are in compliance with the NYS mandatory requirements and the measures you should take to minimize the risk of litigation and maintain a healthy and safe environment for your guests and employees.

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