BTEA
THE ASSOCIATION OF
NEW YORK'S LEADING CONTRACTORS

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The Building Trades Employers Association has been in constant discussions with the Governor's Office and Mayor's Office in order to determine how contractors should proceed with the various Executive Orders set forth by NYS Empire State Development Corporation and NYC Department of Buildings. Here is what we know as of the date of this publication.

We will continue these efforts in coordination with our Member Associations and report them to you through reports of this nature which you can find on the website we set up to focus on information relating to the Coronavirus. Please go to **www.bteany.com/covid19/** where these updates will be posted and for other critical information designed for contractors.

Questions?

Please submit any questions you may have and the BTEA will make every effort to get them answered and report it to the membership. Forward those questions to: **dranshte@bteany.com**

Disclaimer

The information included int his BTEA Publication is for advisory purposes only. Please contact your attorney and other business advisors.

Contractors' Guide Volume 10

Mayor de Blasio Signs Executive Order Requiring Use of Face Coverings

New York City Mayor Bill de Blasio has signed an Executive Order 123 requiring the use of face coverings on construction sites. This Executive Order is part of the Phase One reopening of construction sites and will be enforced by the New York City Department of Buildings (DOB) and is Department of Buildings.

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, NY 10007

EMERGENCY EXECUTIVE ORDER NO. 123
DECLARATION EXTENDING LOCAL STATE OF EMERGENCY
June 7, 2020
EMERGENCY EXECUTIVE ORDER

WHEREAS, on March 7, 2020, New York State Governor Andrew Cuomo declared a State disaster emergency for the entire State of New York to address the threat that COVID-19 poses to the health and welfare of New York residents and visitors; and

WHEREAS, Emergency Executive Order No. 98, issued March 12, 2020 and extended most recently by Emergency Executive Order No. 112, issued May 9, 2020, contains a declaration of a state of emergency in the City of New York due to the threat posed by COVID-19 to the health and welfare of City residents, and such declaration remains in effect for a period not to exceed thirty (30) days or until rescinded, whichever occurs first; and

WHEREAS, this Order is given because of the propensity of the virus to spread person-to-person and also because the actions taken to prevent such spread have led to property loss and damage; and

WHEREAS, measures taken to combat the spread of COVID-19 may prevent individuals, businesses and other entities from meeting legally imposed deadlines for the filing of certain documents or for the completion of other required actions; and

WHEREAS, this Order is given in order to ensure that the Governor's orders are enforced; and

NOW, THEREFORE, pursuant to the powers vested in me by the laws of the State of New York and the City of New York, including but not limited to the New York Executive Law, the New York City Charter and the Administrative Code of the City of New York, and the common law authority to protect the public in the event of an emergency:

Section 1. I hereby direct that the State of Emergency declared in Emergency Executive Order No. 98, dated March 12, 2020, and extended by subsequent orders, is extended for thirty (30) days.

2. I hereby direct that sections 1, 2, 3, and 4 of Emergency Executive Order No. 120, dated June 3, 2020, are extended for five (5) days.

3. Any individuals, including employees and visitors, who are present on a construction site and able to medically tolerate a face covering shall wear such a covering at all times.

4. Golf courses on City-owned property shall remain closed.

5. This Order incorporates any and all relevant provisions of Governor Executive Order No. 202 and subsequent orders issued by the Governor of New York State to address the State of Emergency declared in that Order pursuant to his powers under section 29-a of the Executive Law.

6. I hereby direct the Fire Department of the City of New York, the New York City Police Department, the Department of Buildings, the Sheriff, and other agencies as needed to immediately enforce the directives set forth in this Order in accordance with their lawful enforcement authorities, including but not limited to Administrative Code sections 15-227(a), 28-105.10.1, and 28-201.1, and section 107.6 of the New York City Fire Code. Violations of the directives set forth in this Order may be issued as if they were violations under the New York City Health Code, title 24 Rules of the City of New York sections 3.07 and 3.11, and may be enforced as such by the Department of Health and Mental Hygiene or any other agency named in this section.

7. This Emergency Executive Order shall take effect immediately. The State of Emergency shall remain in effect for a period not to exceed thirty (30) days or until rescinded, which occurs first. Additional declarations to extend the State of Emergency for additional periods not to exceed thirty (30) days shall be issued if needed. The remainder of this Order shall remain in effect for five (5) days unless it is terminated or modified at an earlier date.

NYC Buildings

Original Issuance Date: 06/05/2020
UPDATED: 06/07/2020
Effective: Upon the City of New York Entering Phase 1 Reopening

Purpose: Guidance to owners and contractors on enforcement of New York State (NYS) Department of Health Interim Guidance For Construction Activities During the COVID-19 Public Health Emergency issued on May 13, 2020; NYC Mayoral Executive Order No. 120 issued on June 3, 2020 and Executive Order No. 123 issued on June 7, 2020; pursuant to NYS Governor's Executive Order 202.34 and subsequent orders.

Related Code/Zoning Section(s) and Operating Information:

- AC 28-103.8
- AC 28-201.1
- New York State Gubernatorial Emergency Order 202.34 and subsequent orders and related New York State Department of Health guidelines
- New York City Mayoral Emergency Orders
- NYC Health Department "Reopening New York City: Frequently Asked Questions What the Constructions Businesses Need to Know"

The standards contained within the NYS Interim Guidance apply to all construction activities in operation during the COVID-19 public health emergency until rescinded or amended by the State. Employers are required to develop a plan for each construction site and submit an affirmation to the State as required in the NYS Interim Guidelines. The NYS Interim Guidelines are minimum requirements only; employers can require additional precautions.

In accordance with Section IV of the NYS Interim Guidance, completed safety plans must be conspicuously posted on the construction site. The State has made available a business reopening safety plan template to guide business owners and operators in developing plans to protect against the spread of COVID-19.

In accordance with the Mayor's Emergency Executive Order No. 120 and Executive Order No. 123, the Department of Buildings will periodically be checking construction sites for compliance with employer

safety plans required by the NYS Interim Guidance, including, but not limited to, the following requirements:

- Ensure 6 feet of distance between personnel, unless safety or core function of the work activity requires a shorter distance.
- All personnel and visitors to construction sites must wear face coverings appropriate for their task, unless medically unable to do so.
- Tightly confined spaces (e.g., elevators, hoists) occupied by 50% maximum allowed number of people.
  - 50% capacity must be posted within the cab AND at each landing
- A site safety monitor must be designated whose responsibilities include continuous compliance with all aspects of the site safety plan.
- Appropriate signage is posted throughout the site to remind personnel to adhere to proper hand hygiene, physical distancing rules, appropriate use of personal protective equipment, and cleaning and disinfecting protocols.
- Safety plan(s) are conspicuously posted on site and include a copy of the submitted State affirmation.
- A communication plan for employees, visitors, and clients is available at the site.
- A continuous log of every person who may have had close contact with other individuals at the work site or area is kept at the site.
- There are hand hygiene stations available on site and readily accessible to workers.
- A cleaning and disinfection log is present at the site with minimum daily entries.

For additional information we also recommend that Owners and Contractors review The NYC Health Department FAQ "Reopening New York City: Frequently Asked Questions What the Constructions Businesses Need to Know." In addition to general business compliance it also provides information on best practices that can be implemented by employers at their construction sites.

During the first 30 days of construction resuming, the Department will focus on education to help the industry learn how to implement the new standards and procedures. Initial DOB violations issued during these first 30 days carry no financial penalty. Following this period, violations will result in financial penalties and further noncompliance may result in Stop Work Orders and summonses with accompanying civil penalties of up to $5,000 for each offense.

Any violation of these requirements, or other New York State or New York City mandates, is subject to enforcement including issuance of violations and associated penalties.

References
NYS Governor's Executive Order 202.34
Mayor's Emergency Executive Order No. 120
Mayor's Emergency Executive Order No. 123
Interim Guidance For Construction Activities During The Covid-19 Public Health Emergency
NYC Health Department "Reopening New York City: Frequently Asked Questions What the Constructions Businesses Need to Know." published by NYC DOH (UPDATED: June 4, 2020)

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