

Reopening New York, Part I

Your Workforce in the un-PAUSE Stage

Scott Horton

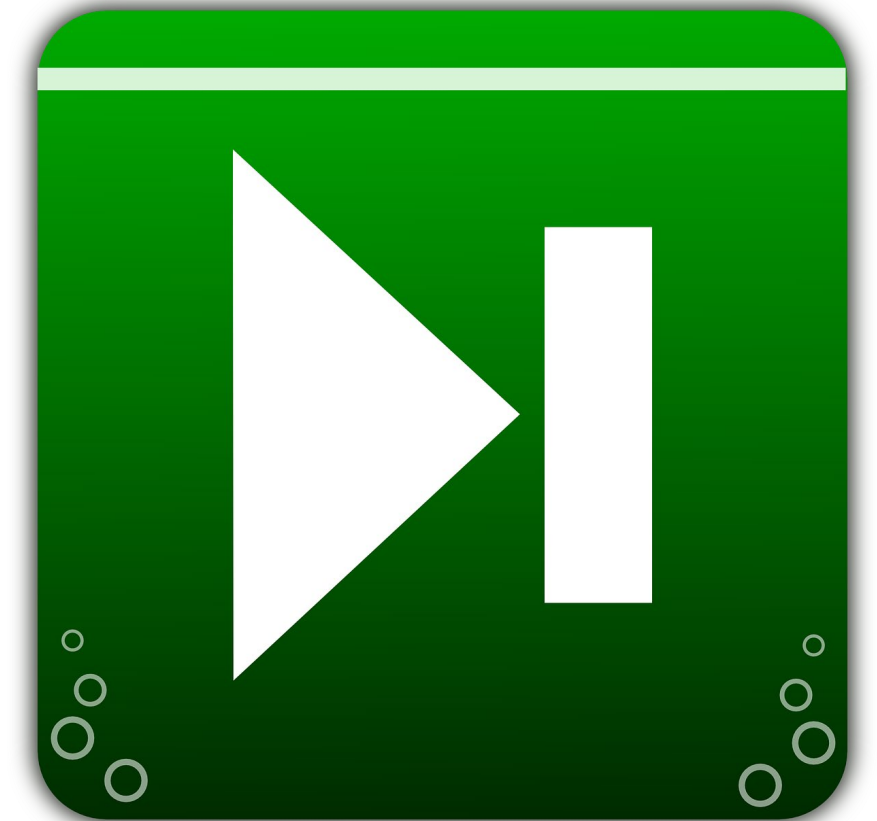
Horton Law PLLC

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New York on PAUSE

- Closed all non-essential onsite work as of 8:00 p.m. on March 22nd
- 4-Phase reopening plan began for some parts of the State on May 15th
- PAUSE order now extended through May 28, 2020, except as allowed for “Phase 1” business operations
- Suggests some regions might begin Phase 2 on May 29th

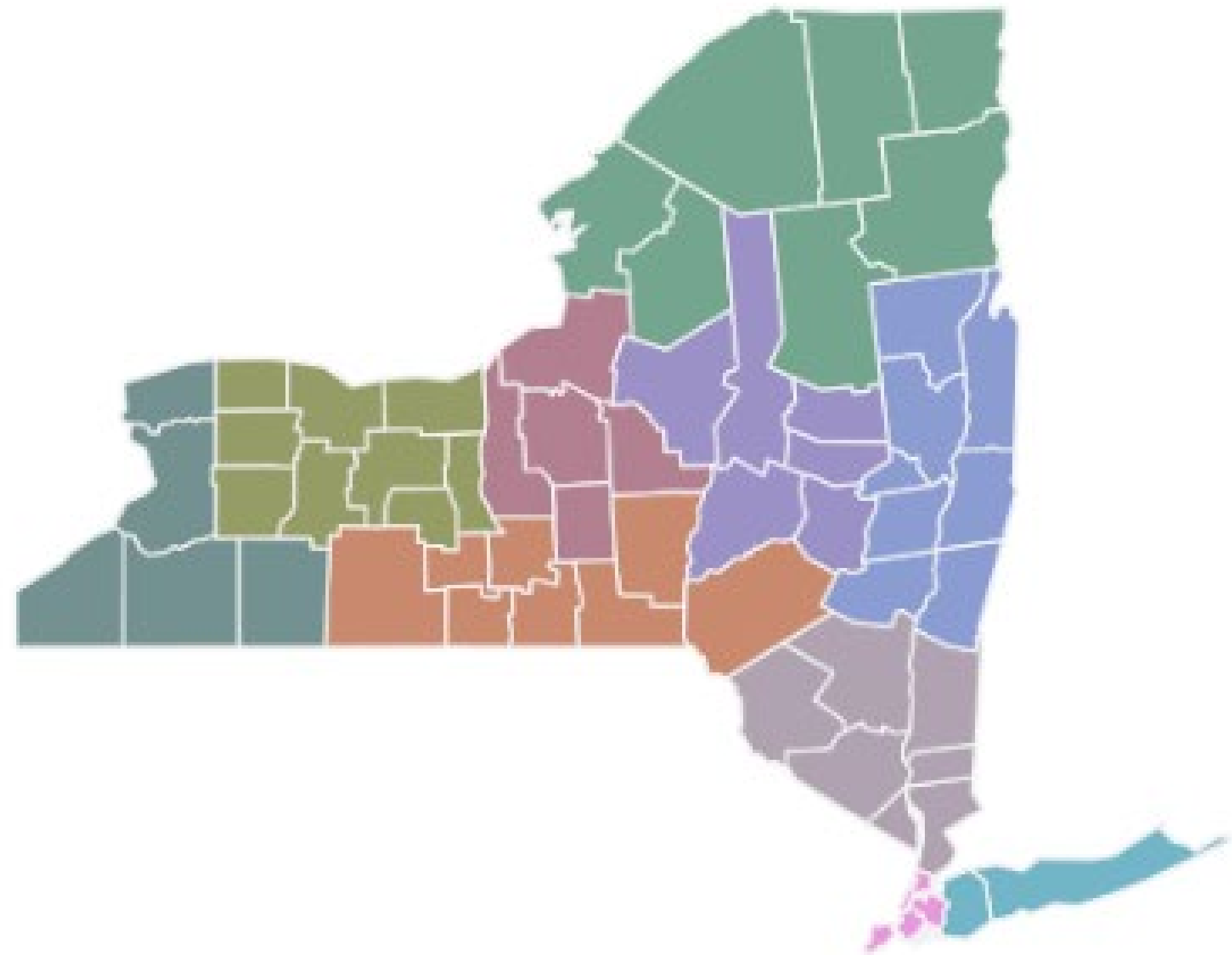


Essential Businesses

- Still eligible to be open statewide
- Operations may expand in corresponding phases
- Will need to affirm compliance when relevant industry-specific guidance is available

Regions

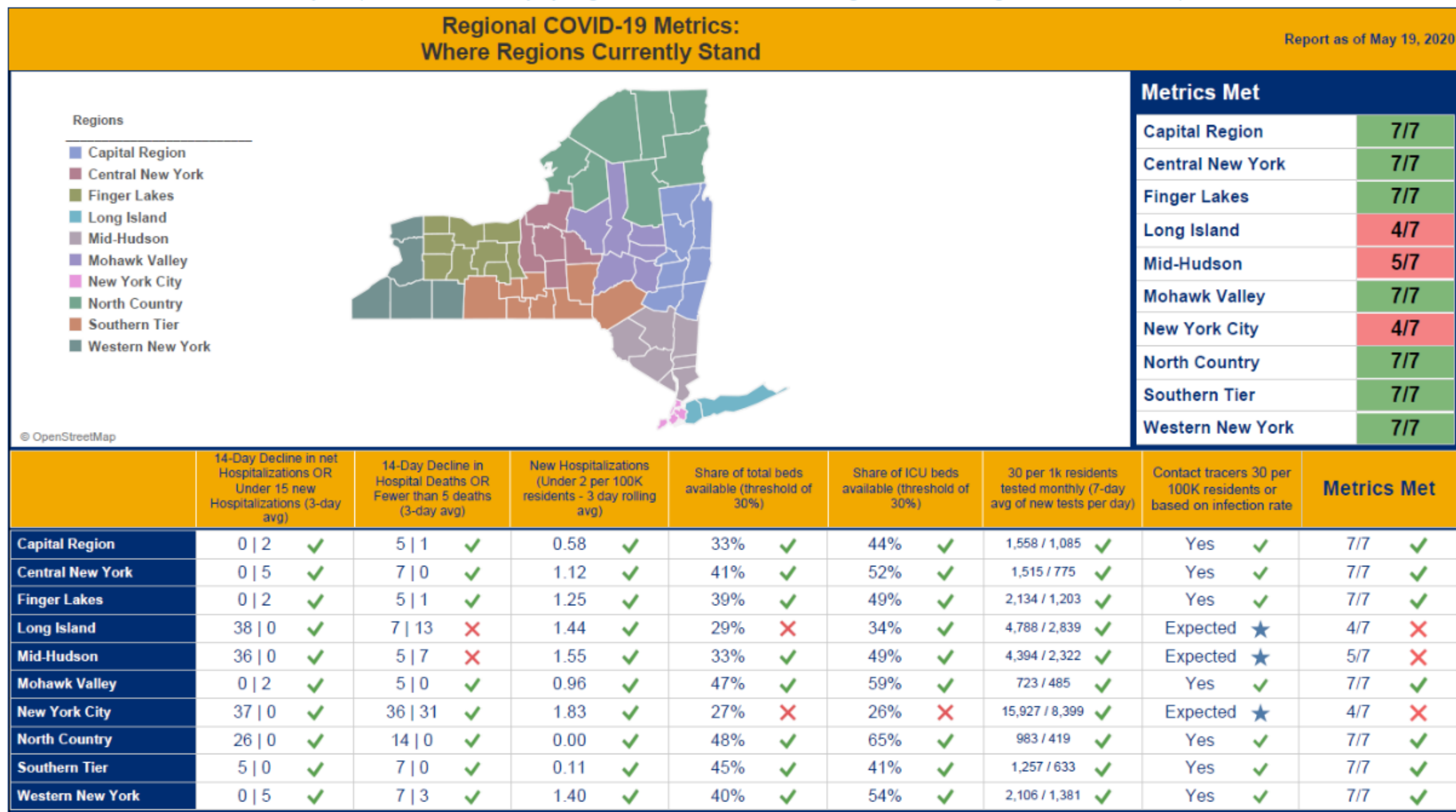
- Capital Region
- Central New York
- Finger Lakes
- Long Island
- Mid-Hudson
- Mohawk Valley
- New York City
- North Country
- Southern Tier
- Western New York



Regional Monitoring Dashboard

REGION BY REGION STATUS

Daily Hospitalization Summary by Region | COVID-19 Tracker: Testing & Fatalities | Regional Breakdown Map



	14-Day Decline in net Hospitalizations OR Under 15 new Hospitalizations (3-day avg)	14-Day Decline in Hospital Deaths OR Fewer than 5 deaths (3-day avg)	New Hospitalizations (Under 2 per 100K residents - 3 day rolling avg)	Share of total beds available (threshold of 30%)	Share of ICU beds available (threshold of 30%)	30 per 1k residents tested monthly (7-day avg of new tests per day)	Contact tracers 30 per 100K residents or based on infection rate	Metrics Met
Capital Region	0 2 ✓	5 1 ✓	0.58 ✓	33% ✓	44% ✓	1,558 / 1,085 ✓	Yes ✓	7/7 ✓
Central New York	0 5 ✓	7 0 ✓	1.12 ✓	41% ✓	52% ✓	1,515 / 775 ✓	Yes ✓	7/7 ✓
Finger Lakes	0 2 ✓	5 1 ✓	1.25 ✓	39% ✓	49% ✓	2,134 / 1,203 ✓	Yes ✓	7/7 ✓
Long Island	38 0 ✓	7 13 ✗	1.44 ✓	29% ✗	34% ✓	4,788 / 2,839 ✓	Expected ★	4/7 ✗
Mid-Hudson	36 0 ✓	5 7 ✗	1.55 ✓	33% ✓	49% ✓	4,394 / 2,322 ✓	Expected ★	5/7 ✗
Mohawk Valley	0 2 ✓	5 0 ✓	0.96 ✓	47% ✓	59% ✓	723 / 485 ✓	Yes ✓	7/7 ✓
New York City	37 0 ✓	36 31 ✓	1.83 ✓	27% ✗	26% ✗	15,927 / 8,399 ✓	Expected ★	4/7 ✗
North Country	26 0 ✓	14 0 ✓	0.00 ✓	48% ✓	65% ✓	983 / 419 ✓	Yes ✓	7/7 ✓
Southern Tier	5 0 ✓	7 0 ✓	0.11 ✓	45% ✓	41% ✓	1,257 / 633 ✓	Yes ✓	7/7 ✓
Western New York	0 5 ✓	7 3 ✓	1.40 ✓	40% ✓	54% ✓	2,106 / 1,381 ✓	Yes ✓	7/7 ✓

Phase One Businesses

- Construction
- Agriculture, Forestry, Fishing and Hunting
- Retail (Limited to curbside or in-store pickup or drop off)
- Manufacturing
- Wholesale Trade

Phase Two Businesses

- Professional Services
- Retail
- Administrative Support
- Real Estate / Rental & Leasing



Phase Three Businesses

- Restaurants
- Food Service



Phase Four Businesses

- Arts / Entertainment / Recreation
- Education



Phase One: Construction

- Building Equipment Contractors
- Building Finishing Contractors
- Foundation, Structure, and Building Exterior Contractors
- Highway, Street and Bridge Construction
- Land Subdivision
- Nonresidential Building Construction
- Residential Building Construction
- Utility System Construction



Phase One: Agriculture, Forestry, Fishing & Hunting

- Other Animal Production
- Other Crop Production
- Support Activities for Animal Production
- Support Activities for Crop Production
- Support Activities for Forestry



Phase One: Retail Trade

Limited to delivery, curbside, and in-store pickup service

- Clothing Stores
- Direct Selling Establishments
- Electronics and Appliance Stores
- Electronic Shopping and Mail-Order Houses
- Furniture and Home Furnishing Stores
- Florists
- General Merchandise Stores
- Health and Personal Care Stores
- Jewelry, Luggage, and Leather Goods Stores
- Lawn and Garden Equipment and Supplies Stores
- Office Supplies, Stationery, and Gift Stores
- Used Merchandise Stores
- Shoe Stores
- Sporting Goods, Hobby, Musical Instrument and Book Stores
- Other Miscellaneous Store Retailers

Phase One: Manufacturing

- Apparel Manufacturing
- Computer and Electronic Product Manufacturing
- Electric Lighting Equipment Manufacturing
- Fabricated Metal Product Manufacturing
- Furniture and Related Product Manufacturing
- Leather and Allied Product Manufacturing
- Machinery Manufacturing
- Nonmetallic Mineral Product Manufacturing
- Paper Manufacturing
- Petroleum and Coal Products Manufacturing
- Plastics and Rubber Products Manufacturing
- Printing and Related Support Activities
- Textile Mills
- Textile Product Mills
- Wood Product Manufacturing
- Other Miscellaneous Manufacturing

Phase One: Wholesale Trade

- Apparel, Piece Goods, and Notions Merchant Wholesalers
- Chemical and Allied Products Merchant Wholesalers
- Furniture and Home Furnishing Merchant Wholesalers
- Household Appliances and Electrical and Electronic Goods Merchant Wholesalers
- Machinery, Equipment, and Supplies Merchant Wholesalers
- Metal and Mineral (except Petroleum) Merchant Wholesalers
- Paper and Paper Product Merchant Wholesalers
- Professional and Commercial Equipment and Supplies Merchant Wholesalers
- Wholesale Electronic Markets and Agents and Brokers
- Miscellaneous Durable Goods Merchant Wholesalers
- Miscellaneous Nondurable Goods Merchant Wholesalers

For help determining whether or not your business is eligible to reopen, use the reopen lookup tool. You can also scroll down to find the guidance for each phase.

NY FORWARD BUSINESS REOPEN LOOKUP TOOL

Link: businessexpress.ny.gov/app/nyforward

Questions

County

Business Category

Results

County

Please select the County where your business is located. If your business operates in multiple locations, you will need to check your reopening eligibility for each separately.

County*

- Select One -

Next

[Exit Application](#)

Questions

✓ County

● Business Category

○ Results

Business Category

Enter a NAICS Code or description of your business in the Primary NAICS Code box below to identify the correct NAICS for your business. You will see a list of possible NAICS Codes and descriptions below as you type. Select and click the correct NAICS code from the list. Both the code and the description will then appear in the Primary NAICS Code field.

If you do not see your NAICS Code when typing into the Primary NAICS Code box below, use the Filter by Category link located below the Primary NAICS Code field. This will allow you to filter through the NAICS categories. Select the Industry Sector, followed by the Sub Sector, Industry, and finally the Industry Classification. Once the correct NAICS code and description is displayed, click the Select button to choose your NAICS code. The Reset button will clear the fields.

If you are still unable to find your NAICS Code, click [here](#) and use the 2017 NAICS Search in the upper left-hand corner of the page.

Please be as specific as possible when selecting your NAICS code.



NAICS

OR [Filter by Category](#)

Back

Next

OPEN WITH RESTRICTIONS

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NAICS: 443142

Industry: Electronics Stores

Your business is located in **Erie** county, which is in region **Western New York**.

Your business is currently **permitted to operate with restrictions statewide**. Restrictions that are applicable to your industry are as follows:
delivery, curbside, and in-store pick-up service only

In order to operate, you must comply with all safety guidelines for your industry, as well as any additional health and safety guidance issued by the state. [Please click here to read applicable guidelines.](#)

If the link above contains guidance specific to your industry, you must affirm that you have read and understand your obligation to operate in accordance with the guidance at the bottom of the document.

Please note that in order to be fully compliant, you must develop a business safety plan.

Thank you for using the New York Forward Business Reopening Lookup Tool. For more information on the New York State Forward plan, visit forward.ny.gov.

Visit [Empire State Development's website](#) for frequently asked questions on how the New York Forward re-opening plan impacts businesses.

OPEN WITH RESTRICTIONS

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NAICS: 812112

Industry: Beauty Salons

Your business is located in **Erie** county, which is in region **Western New York**.

Your business is currently **permitted to operate with restrictions statewide**. Restrictions that are applicable to your industry are as follows:

Salon operations may continue to operate with respect to the take-out or delivery of products; no services may be performed

In order to operate, you must comply with all safety guidelines for your industry, as well as any additional health and safety guidance issued by the state. [Please click here to read applicable guidelines.](#)

If the link above contains guidance specific to your industry, you must affirm that you have read and understand your obligation to operate in accordance with the guidance at the bottom of the document.

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New York Reopening Documents

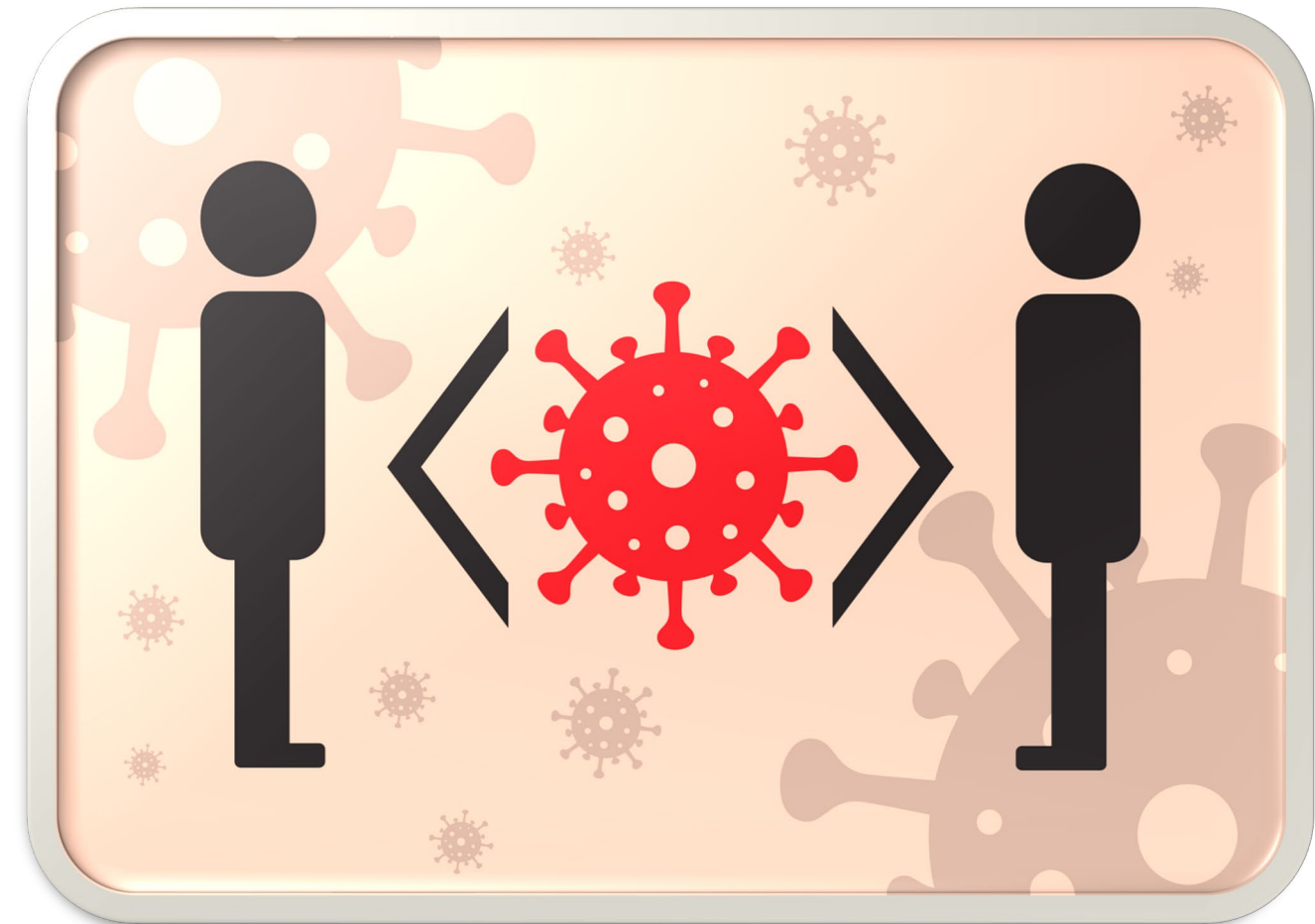
» **Summary Guidelines**

» **Detailed Guidelines**

» **Safety Plan Template**

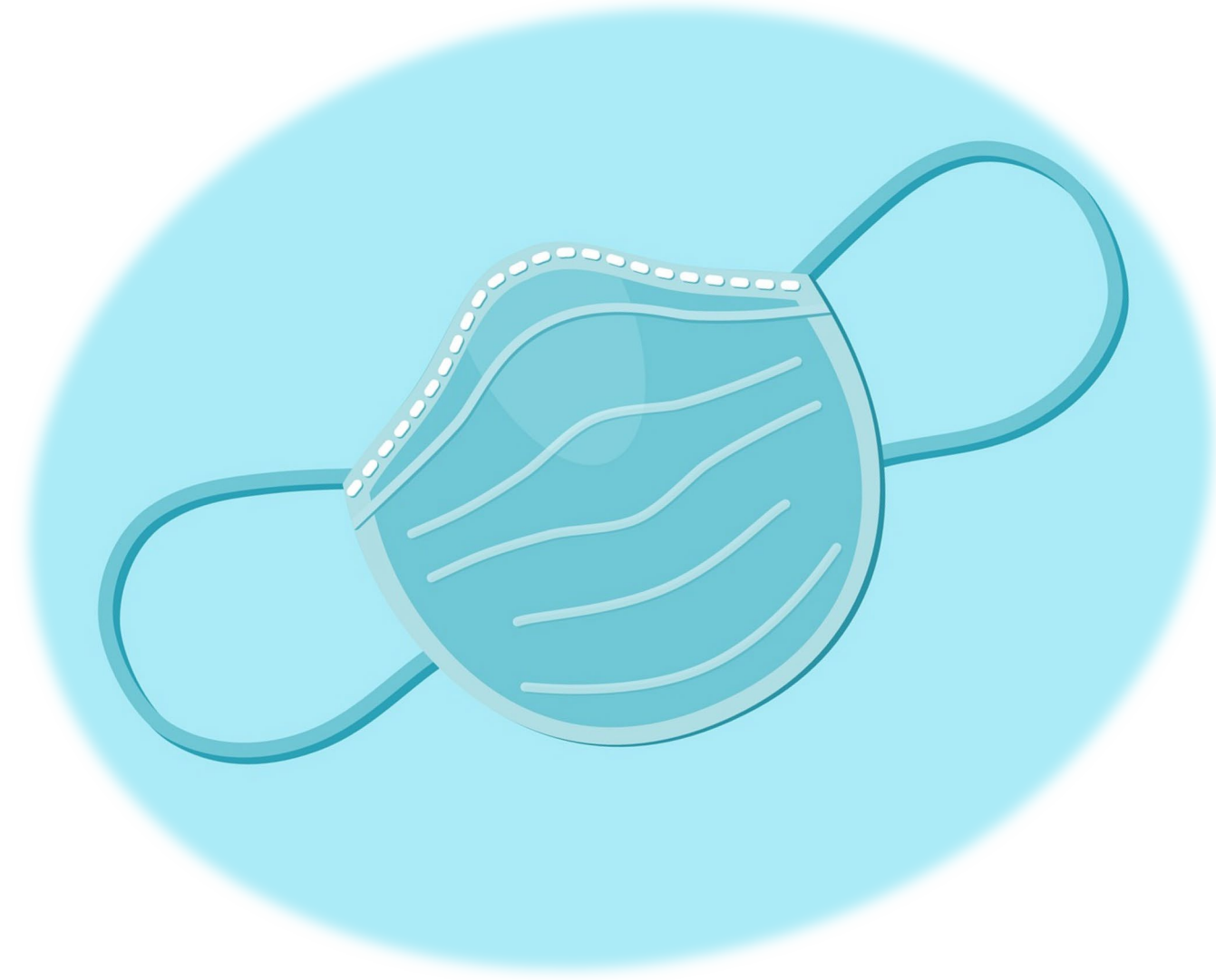
NYS Guidance - People

- Physical distancing
- Gatherings in enclosed spaces
- Workplace activity
- Movement and commerce



NYS Guidance - Places

- Protective equipment
- Hygiene and cleaning
- Phased reopening
- Communication plans



NYS Guidance - Processes

- Screening and testing
- Tracing and tracking



NYS Guidance – Notable Components

- Mandatory health screening assessments before employees begin work each day
- Employees must maintain 6 feet between each other, unless safety or a core work function requires closer proximity
- Employers must provide employees with an acceptable face covering at no cost to employees, but employees may wear their own suitable face covering
- In-person gatherings must be limited as much as possible
- Signs throughout the worksite must emphasize proper hygiene, social distancing rules, appropriate use of PPE, and cleaning and disinfecting protocols
- Companies must maintain logs of all workers and visitors who might have close contact with other individuals at the site
- Employers must notify State and local health departments if a worker tests positive for COVID-19 and assist with contact tracing efforts

Mandatory Screening

- Remotely or on-site before beginning work each day
- Minimally requires questionnaire
- Could include temperature checks or possibly COVID-19 test
- Screening personnel need to be properly trained
- In-person screeners must wear face masks

Screening Questionnaire

- Knowingly been in close or proximate contact in the past 14 days with anyone who has tested positive for COVID-19 or who has or had symptoms of COVID-19?
- Tested positive for COVID-19 in the past 14 days?
- Experienced any symptoms of COVID-19 in the past 14 days?

COVID-19 Symptoms

- Fever
- Cough
- Shortness of breath
- At least 2 of the following: fever, chills, repeated shaking with chills, muscle pain, headache, sore throat, or new loss of taste or smell

If “Yes” . . .

- Employee can't work onsite and should contact their doctor
- Employer must immediately notify the local health department and NYS Department of Health about the “suspected case”
- Employer should provide the employee with information on healthcare and testing resources

Symptoms + Positive Test/No Test

- 14-day self-quarantine before returning to work
- If critical to operation or safety of the facility, consult local health department before possible return with additional precautions

Positive Test without Symptoms

- 14-day self-quarantine before returning to work
- If critical to operation or safety of the facility, consult local health department before possible return with additional precautions

No Symptoms but Close Contact with COVID-19

- Regular monitoring
- Wear a mask “at all times while in the workplace for 14 days after last exposure”
- Social distance
- Disinfect and clean workspaces
- If symptoms arise, proceed accordingly

Safety Plans

- General template available on NYS website
- Must be individualized for the business and put in writing
- Must post “conspicuously” on site
- Don’t have to submit plan to the government, but can be used to hold businesses accountable
- Now applies to previously open essential businesses as well

Expect Changes

- Guidelines warn they might change
- Transition between stages is uncertain
- Going backward is a possibility
- Federal government could step in (or not)

Stay Updated!

Newsletter

Please visit our firm website at <https://hortonpllc.com/newsletter-signup/> to register to receive the firm's monthly email newsletter. We share articles written by our attorneys related to changes to Federal and New York laws affecting the workplace. You'll also be notified about our future complimentary webinars.

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Thanks for your time!

Questions?

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