

On June 23rd, Governor Cuomo announced that he would not be extending the state disaster emergency declared on March 7, 2020, to fight COVID-19 (Executive Order 202). The COVID state of emergency, which had been most recently extended through June 24, 2021, by Executive Order 202.109, will be allowed to expire, effective June 25, 2021. Pursuant to Executive Law § 29-a, every 202-related Executive Order will expire along with the state of emergency.

### **The End of Virtual Meetings Pursuant to Executive Order 202.1**

After June 24, 2021, local governments will no longer be able to conduct virtual meetings pursuant to Executive Order 202.1. Rather, any meeting of a public body conducted after June 24, 2021, may only be conducted pursuant to the NYS Open Meetings Law. Specifically, the public must be allowed to attend meetings of public bodies in person. Since 2000, the Open Meetings Law has allowed public bodies to conduct meetings via videoconference; however, the Open Meetings Law requires that the public be allowed to attend in person at any location at which any member of a public body is participating via videoconference. Nothing in the Open Meetings Law prohibits a public body from allowing the public to view, or listen to, or even comment at meetings of public bodies via videoconference or teleconference technology. However, **members of public bodies** may only participate via videoconference in a manner that allows the public (a) to view and hear the public body members and (b) to be present at any of the locations from which a public body member is participating in the meeting.

***If a public body has already scheduled a virtual meeting to occur after June 24, 2021, with the intent to conduct the meeting/hearing pursuant to Executive Order 202.1, the public body must re-notice the meeting/hearing with appropriate information that it will be conducted in person.***

Local governments may NOT prevent unvaccinated individuals from attending meetings of public bodies. However, municipalities may require unvaccinated individuals to wear a mask to attend meetings.

Please note, NYCOM has drafted legislation ([A.8071/S.6958](#)) that, if enacted, would make permanent the authority for public bodies to hold remote meetings/hearings in a fashion similar to that allowed during the state of emergency. The bill currently remains in committee in the Senate and the Assembly.

### **NYS Department of Health Regulation Regarding Unvaccinated Individuals**

On June 23, 2021, the NYS Department of Health issued an emergency regulation requiring unvaccinated individuals who are over the age of two and able to medically tolerate a face-covering to continue wearing a mask when in a public place and unable to maintain, or when not maintaining, social distance. The Department of Health regulation requires employers to provide masks to unvaccinated employees. Moreover, unvaccinated employees must wear a mask when in direct contact with customers or members of the public, or when unable to

maintain social distance. A copy of the emergency Department of Health regulation can be viewed online at <https://regs.health.ny.gov/regulations/emergency>.

### **Local Emergency Orders**

Local chief executive officers may, pursuant to Executive Law § 24, declare their own states of emergency and issue emergency orders pursuant thereto. Local officials are strongly encouraged to consult with their municipal attorney when declaring a local state of emergency and issuing emergency orders.

### **Outdoor Dining**

The expiration of the COVID state of emergency will also end the temporary authority for State liquor licensees to extend their licensed premises onto municipal property (i.e., street and sidewalk seating). However, because the State Legislature has passed a bill authorizing the extension of licensed businesses onto municipal property, the State Liquor Authority is extending a safe harbor to licensees that are currently operating on municipal land as part of a municipal plan that has been approved by the Authority. Note that the legislation ([A.7733/S.6353-A](#)) was delivered to the Governor on June 24, 2021. NYCOM anticipates that the Governor will act quickly to sign this legislation into law.

### **Utility Termination Moratorium**

Chapter 106 of the Laws of 2021 prohibits the termination of certain utility services and the imposition of penalties or relieves of delinquent utility costs for the duration of the state disaster emergency or December 31, 2021 – whichever is earlier. Chapter 106 also imposes notice requirements on municipal utility providers. While the expiration of the COVID state of emergency ends the prohibition on penalties for delinquent payments (for customers that do not enter into a deferred payment agreement), some customers may continue to be covered by the law's protections as it relates to service termination and relieves. These protections will endure for an additional 180 days, which will expire on December 22, 2021. NYCOM will be sending out a separate update on this issue in the coming days.