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**THE COUNCIL OF THE CITY OF NEW YORK**

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**COMMITTEE ON GOVERNMENTAL OPERATIONS**

Hon. Fernando Cabrera, Chair

**June 16, 2020**

**Int. No. 1950:**  By Council Members Cumbo, Dromm, Salamanca, Rivera, Kallos, Moya, Van Bramer, Chin, Adams, Rose, Menchaca, Lancman, Cohen, Rosenthal, Ampry-Samuel, and Ayala

**Title:** A Local Law in relation to establishing a city restart officer and policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic

# **Introduction**

On June 16, 2020, the Committee on Governmental Operations, chaired by Council Member Fernando Cabrera, will hold a hearing on Int. No. 1950, sponsored by Council Member Laurie Cumbo, in relation to establishing a city restart officer and policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic. Those invited to testify include representatives from the Department of Citywide Administrative Services, the Department of Health and Mental Hygiene, the Office of Labor Relations, unions, and other interested members of the public.

# **Background**

1. **COVID-19 and New York On PAUSE: Agencies send non-essential workforce home**

The rapid transmission of the novel coronavirus (SARS-CoV-2) and the resulting infectious disease, COVID-19, first identified in late 2019, led the World Health Organization to declare a pandemic on March 11, 2020.[[1]](#footnote-2) As of June 2, 2020, there had been 6,318,040 confirmed COVID-19 cases worldwide, and the disease had claimed the lives of 376,885 people.[[2]](#footnote-3) In the United States, there were 1,812,742 confirmed COVID-19 cases and 105,475 deaths as of June 2, 2020.[[3]](#footnote-4) By March 22, 2020, New York City was designated the epicenter of the pandemic, with approximately five percent of confirmed COVID-19 cases worldwide.[[4]](#footnote-5) As of May 31, 2020, New York State had confirmed 371,711 positive COVID-19 cases, and 23,959 related deaths.[[5]](#footnote-6) Of those, New York City had reported 200,830 positive COVID-19 cases, and 15,349 confirmed deaths.[[6]](#footnote-7)

On March 7, 2020, Governor Cuomo issued an Executive Order declaring a disaster emergency for the State of New York.[[7]](#footnote-8) This declaration was followed by a series of Executive Orders,[[8]](#footnote-9) referred to collectively as “New York On PAUSE,” which “closed or otherwise restricted public or private businesses or places of public accommodation” in order to slow the spread of COVID-19 throughout the state.[[9]](#footnote-10) Meanwhile, Mayor de Blasio issued a number of Executive Orders suspending, postponing, and modifying City government operations to promote social distancing in the City.[[10]](#footnote-11) Among other things, these state and local orders closed schools and businesses, and required government agencies at the State and City levels to drastically reduce the number of staff working in offices. The majority of City and State agencies have since moved to partial or full work-from-home postures.

1. **New York Forward: Business in the State begin to reopen**

As social distancing measures slowed the spread of COVID-19 across the State, leading to consistently lower rates of new COVID-19 cases, hospital admissions and deaths, Governor Cuomo announced a plan to reopen businesses across the State in four phases on May 4, 2020.[[11]](#footnote-12) Phased reopening of the State would be regionally-implemented based on benchmarks set forth in the plan, and would begin as early as May 15, 2020. Regions would only be able to loosen restrictions with proof of the following:[[12]](#footnote-13)

* Sufficiently low infection rate;
* Healthcare system capacity to absorb potential increase in new cases;
* High diagnostic testing capacity to identify new cases; and
* Contact-tracing capacity to track viral spread.

Phase One would allow for reopening of the following industries: construction, agriculture (includes forestry, fishing and hunting), retail (curbside or in-store pick-up and drop-off, only), manufacturing, and wholesale trade.[[13]](#footnote-14) Phase Two would allow for reopening of the following industries: business offices, real estate, in-store retail, vehicle retail (sale, leasing and rental), retail rental, repair, and cleaning activities, commercial building management, and hair salons and barbershops.[[14]](#footnote-15) Phase Three would allow for reopening of restaurants, and Phase Four would allow for reopening of education and arts/entertainment/recreation establishments. As of June 2, 2020, all New York regions, except for New York City, have entered at least Phase One of the re-opening plan,[[15]](#footnote-16) with six New York State regions having entered Phase Two.[[16]](#footnote-17)

As part of Phase Two, the New York State Department of Health (DOH) has issued guidance for each industry to consider as they re-open. On May 28, 2020, DOH issued detailed and summary guidance for entities that operate within office spaces. The guidance recommends policies and procedures on a variety of topics, including promoting physical distancing in the office, limiting in-person gatherings such as meetings and conferences, ensuring the use of personal protective equipment, cleaning and disinfecting, screening and testing, and tracing and tracking.[[17]](#footnote-18)

1. **OSHA guidelines on returning to work**

Following the onset of the COVID-19 crisis, the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) published guidance on preparing workplaces for COVID-19.[[18]](#footnote-19) The guidance is based on “traditional infection prevention and industrial hygiene practices.”[[19]](#footnote-20) It describes basic steps that every employer can take to reduce the risk of worker infection and provides specific recommendations for workers within various risk categories.[[20]](#footnote-21)

According to OSHA’s guidance, some basic steps that all employers can take include: (i) developing a plan to help guide protective action against COVID-19; (ii) implementing good hygiene and infection control practices; (iii) developing policies and procedures for the prompt identification and isolation of sick people, if appropriate; (iv) implementing flexible policies that allow sick employees to stay home; (v) implementing engineering controls (such as barriers and air filters) and administrative controls (such as staggered work schedules); and (vi) promoting the use of appropriate PPE.[[21]](#footnote-22) OSHA also recommends that employers stay abreast of federal, state, and local guidance on safety precautions.[[22]](#footnote-23)

# **Legislative Analysis of Int. No. 1950 (Cumbo)**

Int. No. 1950 (Cumbo) would require the Mayor to designate a restart officer for the City. The restart officer would be responsible for assisting City agencies as they work to reopen their offices and resume their operations in response to the COVID-19 pandemic. The Mayor would have the discretion to select any head of a mayoral office or any mayoral appointee heading a City agency as the restart officer.

Within 30 days of designation, the restart officer, in collaboration with the Department of Health and Mental Hygiene, would be required to (i) recommend policies and protocols for reopening agency offices and resuming agency functions in a manner that prevents the spread of COVID-19, and (ii) identify the specific operations and functions that each agency will need to address as it plans to reopen. The policies and protocols recommended by the restart officer would need to cover certain specified topics, including occupancy limits for offices and facilities, protective furnishings, sanitizing products, personal protective equipment, surface cleaning, air purification, and accommodations for persons most susceptible to complications from COVID-19. The restart officer would also be responsible for providing each agency with guidance and information on applicable federal, state, and local laws related to reopening.

Once the restart officer publishes the recommendations, each agency would have 30 days to develop a reopening plan and submit it to the restart officer. Plans that do not conform with the restart officer’s recommendations or address the specific operations and functions identified by the restart officer would need to include an explanation as to why. The restart officer would be responsible for reviewing each agency’s reopening plan and proposing amendments thereto.

No later than 60 days after the effective date of Int. No. 1950, and every 60 days thereafter, the restart officer would be required to submit a report to the Mayor and the Speaker of the Council on how agencies have complied with their obligation to develop and submit a reopening plan. This reporting requirement would remain in effect until the position of restart officer terminates.

The restart officer would be required to routinely update its recommendations to the extent necessary and practicable. The position of restart officer would terminate upon a determination by the Mayor that the restart officer is no longer necessary to promote the safe reopening of agency offices and the safe resumption of agency functions in response to COVID-19.

Int. No. 1950

By Council Members Cumbo, Dromm, Salamanca, Rivera, Kallos, Moya, Chin, Adams, Rose, Menchaca, Lancman, Cohen, Rosenthal, Ampry-Samuel, and Ayala

A LOCAL LAW

In relation to establishing a city restart officer and policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic

Be it enacted by the Council as follows:

Section 1. Definitions. For the purposes of this local law, the following terms have the following meanings:

Agency. The term “agency” has the same meaning as set forth in section 1150 of the New York city charter.

City. The term “city” means the city of New York.

COVID-19. The term “COVID-19” means the 2019 novel coronavirus or 2019-nCoV.

Officer. The term “officer” means the city restart officer established by this local law.

§ 2. City restart officer established. The mayor shall designate the head of an office of the mayor, or of such other agency headed by a mayoral appointee as the mayor may determine, to act as the city’s restart officer to promote the safe reopening of agency offices and resumption of agency functions in response to COVID-19.

§ 3. Powers and duties. The officer shall have the power and duty to:

a. No later than 30 days after designation by the mayor, in collaboration with the department of health and mental hygiene, recommend policies and protocols regarding the reopening of agency offices and resumption of agency functions to prevent the spread of COVID-19 and infections thereof, including, but not limited to, policies and protocols with respect to the following:

1. For offices and any other facilities where persons may be present, the maximum occupancy, based on room size and all other relevant criteria;

2. The types of and need for protective furnishings, and methods of use of such furnishings;

3. The types and amount of sanitizing products needed, and methods of distribution, access and application;

4. The amount of personal protective equipment needed, and methods of distribution, access and use;

5. The cleaning and sanitizing of surfaces and purification of air, including the frequency of such measures; and

6. The management and accommodation of persons most susceptible to developing serious health complications as a result of a COVID-19 infection;

b. No later than 30 days after designation by the mayor, in collaboration with the department of health and mental hygiene, determine the specific operations and functions that each agency shall address in each such agency’s reopening plan required pursuant to section four of this local law. The officer shall take into account the unique operations, functions and circumstances of each agency when making such determinations. The officer shall make such determinations to promote compliance with applicable federal, state and local laws and regulations related to the reopening of agency offices and resumption of agency functions, and to conform such plans with policies and protocols recommended pursuant to subdivision a of this section;

c. Provide guidance and information to each agency regarding federal, state and local laws and regulations related to the reopening of agency offices and resumption of agency functions;

d. Review agency reopening plans and amendments to such plans submitted pursuant to section four of this local law and propose amendments to such plans to promote: compliance with applicable federal, state and local laws and regulations related to the reopening of agency offices and resumption of agency functions; conformance with the policies and protocols recommended pursuant to subdivision a of this section; adequate treatment of the unique functions and operations identified pursuant to subdivision b of this section; and to further the objectives of the office;

e. No later than 60 days after the effective date of this local law, and every 60 days thereafter until such officer is terminated pursuant to section six of this local law, submit to the mayor and speaker of the council a report on agency compliance with section four of this local law; and

f. Routinely update, as necessary and practicable, the policies and protocols recommended pursuant to subdivisions a and b of this section.

§ 4. Agency reopening plans. No later than 30 days after the officer publishes recommendations pursuant to section three of this local law, each agency shall submit to the officer a plan for reopening and resuming functions. Amendments to such plans shall be submitted to the officer on the same day as such amendments are made by the agency. If any such plan does not conform with the officer’s recommendations pursuant to subdivision a of section three or address a specific operation or function identified pursuant to subdivision b of section three, an explanation shall be provided in such plan. Each agency shall publish such agency’s plan on such agency’s website no later than 1 day after submitting such plan or any amendment to such plan.

§ 5. Online access to recommendations, plans and reports. The officer shall publish all recommendations, agency reopening plans and reports generated pursuant to this local law online, no later than 1 day after making such recommendation or receiving such plan or report.

§ 6. Termination. The title of city restart officer and the attendant powers and duties accorded by this local law shall terminate upon the mayor’s determination that the officer is no longer necessary to promote the safe reopening of agency offices and resumption of agency functions in response to COVID-19. The mayor shall notify the speaker of the council upon making such determination.

§ 7. Effective date. This local law takes effect immediately.

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1. World Health Organization, WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 (2020), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> [↑](#footnote-ref-2)
2. Johns Hopkins University, COVID-19 Map, <https://coronavirus.jhu.edu/map.html> (last visited June 2, 2020). [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. Jesse McKinley, *New York City Region Is Now an Epicenter of the Coronavirus Pandemic*, N.Y. Times (Mar. 22, 2020), <https://www.nytimes.com/2020/03/22/nyregion/Coronavirus-new-York-epicenter.html>. [↑](#footnote-ref-5)
5. New York State Department of Health COVID-19 Tracker, <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Map?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n> (last visited June 2, 2020). [↑](#footnote-ref-6)
6. In addition to confirmed deaths, the City tracks “probable” COVID-19 deaths. As of June 1st, 2020, there were 4,725 probable COVID-19 deaths reported. *See* NYC DOHMH, COVID-19: Data, <https://www1.nyc.gov/site/doh/covid/covid-19-data.page> (last visited June 2, 2020). [↑](#footnote-ref-7)
7. N.Y. Gov. Exec. Order No. 202. [↑](#footnote-ref-8)
8. N.Y. Gov. Exec. Order No. 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13, 202.14, 202.28, and 202.31. [↑](#footnote-ref-9)
9. N.Y. Gov Exec. Order No. 202.31. [↑](#footnote-ref-10)
10. *See, e.g.*,N.Y.C Mayor Exec. Order No. 99 and 100. [↑](#footnote-ref-11)
11. New York Forward, <https://forward.ny.gov/> (last visited June 2, 2020). [↑](#footnote-ref-12)
12. N.Y. Gov. Andrew Cuomo, NY Forward: A Guide to Reopening New York & Building Back Better, at 26 (2020), <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NYForwardReopeningGuide.pdf>. [↑](#footnote-ref-13)
13. New York Forward, Phase One Industries, <https://forward.ny.gov/phase-one-industries> (last visited June 2, 2020). [↑](#footnote-ref-14)
14. New York Forward, Phase Two Industries <https://forward.ny.gov/phase-two-industries> (last visited June 2, 2020). [↑](#footnote-ref-15)
15. New York Forward, <https://forward.ny.gov/> (last visited June 2, 2020). [↑](#footnote-ref-16)
16. New York Forward, Phase One Industries, <https://forward.ny.gov/phase-one-industries> (last visited June 2, 2020). [↑](#footnote-ref-17)
17. New York Department of Health, Interim Guidance for Office-Based Work During the COVIID-19 Emergency (2020), <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/offices-interim-guidance.pdf> [↑](#footnote-ref-18)
18. Occupational Safety and Health Administration, Guidance on Preparing Workplaces for COVID-19 (2020), <https://www.osha.gov/Publications/OSHA3990.pdf> [↑](#footnote-ref-19)
19. *Id.* at 3. [↑](#footnote-ref-20)
20. *Id.* at 7. [↑](#footnote-ref-21)
21. *Id.* at 7-18. [↑](#footnote-ref-22)
22. *Id.* at 26. [↑](#footnote-ref-23)