

“Gone Swimming” – Pools May Open Statewide, but Only with Municipal Approval

During his June 11 press conference, Gov. Andrew Cuomo announced that indoor and outdoor pools and playgrounds across New York may reopen, but only with local approval. Any pool operator who wishes to reopen their pool must work with local governments to have the pool reopened. Additionally, the pool operator must follow new guidelines for operation issued by the New York Department of Health.

Pool and Playground Reopening Approval Process

The reopening of pools across the state will vary by localities. Empire State Development’s [guidance on essential businesses](#) was updated on June 11 to establish the process to reopen pools. The guidance allows for state or local governments to reopen “[p]arks and other open public spaces, including playgrounds and other areas of congregation.”

Recreation areas may only be opened if the following practices are instituted:

- social distancing is required by visitors;
- hard surfaces and frequently touched objects (e.g., benches, handrails) must have frequent cleaning and disinfection measures in place; and
- visitors must wear face coverings, unless they are under the age of two or unable to medically tolerate face coverings.

Although the Empire State Development guidance does not state the best practices for playgrounds and other park areas, operators should post ample signage throughout the area reminding visitors to maintain social distancing and wear face coverings. Consider making such signs kid-friendly for playground areas.

If you are a private operator of a pool or playground, you will need to obtain permission from your local government to reopen. If you are a local government operating pools or playgrounds, you may reopen at your own discretion. In either case, the above requirements must be followed.

Department of Health Pool Guidance

In addition to the above requirements, pool operators must follow the [pool protocols](#) developed by the Department of Health. These protocols can be split into four cornerstones: face coverings, social distancing, sanitizing and signs.

1. Face coverings

- Face coverings are **not** to be worn in the water. Outside of the water, all individuals are to wear face coverings if social distancing cannot be maintained with another person outside of their group.

2. Social distancing

- The maximum size of any single group must be limited to 10 or fewer individuals. Each group of individuals is to maintain social distancing from those individuals not in their group.

- Additionally, the occupancy of the premise and the pool is to be limited. The occupancy must be limited to the “number of individuals and groups who can be safely and appropriate[ly] spaced such that each individual and group is at least six feet away from others.”
- Pools may institute physical barriers to separate groups of individuals. These barriers **cannot** obstruct supervision or impair airflow.

3. Sanitizing

- Hand washing stations with running water should be available – when not possible, hand sanitizer with at least 60% for alcohol must be provided.
- High-touch areas must be frequently cleaned and disinfected. Cleaning logs must be maintained that document the date, time and scope of cleaning/disinfection.

4. Signs

- Social distancing markers, including tape or signs, must be placed in commonly used areas (e.g., entrances and exits).
- Signs must be posted throughout the property. The signs must remind individuals to:
 - remain home if they have symptoms of COVID-19, have tested positive for COVID-19 in the last 14 days, or had close contact with someone with COVID-19 in the last 14 days;
 - practice social distancing;
 - wear face coverings when social distancing cannot be maintained, but not in the water;
 - encourage proper hand washing and respiratory hygiene (e.g., sneeze into the elbow); and
 - abide by cleaning and disinfecting protocols.

Remember, if your business is eligible to reopen, you need a plan. The attorneys at Bond, Schoeneck and King can help you develop a reopening plan. Our attorneys have already worked with clients on the development and submission of plans to the state and regional Empire State Development directors. We have also formed a new practice, [COVID-19 Recovery for Business](#) to help clients recover and reopen.

If your industry needs its voice to be heard, now is the time to act. Please contact [Hermes Fernandez](#), [Caitlin Anderson](#) or the attorney at the firm with whom you are regularly in contact.



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