

Shutdown 2.0: New York's Plan to Deal with Cluster Zones

Late on October 6, Gov. Andrew Cuomo issued Executive Order 202.68 (which may be found [here](#)). This order details how New York will deal with clusters of COVID-19: by designating red (severe), orange (less severe) and yellow (caution) zones. Red zones, which designate the most severe outbreaks, have the most restrictions in place. Yellow zones, which are less severe, still have numerous restrictions in place. Further, the order changes the penalties associated with non-essential gatherings and failure to wear a face covering. We describe these developments, and the currently identified cluster zones, below.

Where are the current cluster zones?

The governor has designated six cluster zones: Broome County, Brooklyn, Queens (two separate clusters), Orange County and Rockland County. The Broome County cluster, which can be seen on [this map](#), is a yellow zone only. It includes parts of Binghamton, Johnson City, Endicott, Endwell and Vestal.

Brooklyn's cluster is expansive, containing red, orange, and yellow zones and spanning much of the borough. You may view the cluster on [this map](#).

Queens has two clusters: the [first may be found here](#) and the [second may be found here](#). These clusters are smaller than the Brooklyn clusters, centering on Far Rockaway and Forest Hills. Both clusters have red, orange and yellow zones.

The map of the Orange County cluster may be found [here](#). This cluster has only a red zone and a yellow zone, centering on the town of Kiryas Joel.

Finally, the Rockland County cluster may be found [here](#). Like the Orange County cluster, there is only a red zone and a yellow zone. This cluster centers on Hillcrest, Monsey and New Square.

What are the different cluster zone restrictions?

There are different restrictions in place depending on the color of the zone.

- Red zones restrictions are similar to the initial days of New York Pause. Red zone restrictions are:
- All non-essential gatherings of any size cannot take place.
- All non-essential businesses must reduce the in-person workforce by 100%.
- All houses of worship must reduce their capacity to the **lesser of** 25% of maximum occupancy or 10 people.
- All restaurants or taverns must close in-person service but may remain open for takeout or delivery.
- All schools must go to remote learning.

Orange zones have the following restrictions:

- All non-essential gatherings must be limited to 10 people.
- Some non-essential businesses may reopen, but others, including gyms, fitness centers or classes, barbers, hair salons, spas, tattoo or piercing parlors, nail technicians and nail salons, cosmetologists, estheticians, the provision of laser hair removal and electrolysis, and all other personal care services, must reduce their in-person workforce by 100%.

- All houses of worship must reduce their capacity to the **lesser of** 35% of maximum occupancy or 25 people.
- All restaurants or taverns must close indoor dining. Outdoor dining is allowed, but every table must be limited to four people. Takeout and delivery may still operate.
- All schools must go to remote learning.

Yellow zones have the following restrictions:

- All non-essential gatherings must be limited to 25 people.
- Some non-essential businesses may reopen, but others, including gyms, fitness centers or classes, barbers, hair salons, spas, tattoo or piercing parlors, nail technicians and nail salons, cosmetologists, estheticians, the provision of laser hair removal and electrolysis, and all other personal care services, must reduce the in-person workforce by 100%.
- All houses of worship must reduce their capacity to 50% of maximum occupancy.
- Indoor and outdoor dining are allowed, but every table must be limited to four people. Takeout and delivery may still operate.
- Schools that reopen for in-person learning must follow to be issued guidance from the Department of Health regarding the mandatory testing of students and school personnel.

Please note: non-essential gatherings are defined by Executive Order 202.14 as “parties, celebrations, games, meetings or other social events.”

When do the cluster restrictions take effect?

These restrictions take effect no later than Friday, October 9. Localities, however, may choose to enact these restrictions sooner, so long as they provide notice to the affected areas.

What are the new penalties contained in the order?

There are new penalties for violations. First, a person may be fined \$15,000 for promoting or organizing a non-essential gathering. Second, fines for not wearing face coverings are up to \$1,000, and local governments may keep such fines if they assess them.

Note that these new penalties apply throughout the state. They are not limited to the cluster zones.

If you have questions, or want to effect the standards applicable to your industry, please contact [Hermes Fernandez](#), [Caitlin Anderson](#) or the attorney at the firm with whom you are regularly in contact.



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