

## Executive Order 202.74: Closing Times for Bars, Restaurants, Liquor Stores and Gyms, Restricting Private Gatherings

On November 12, Gov. Andrew Cuomo issued [Executive Order 202.74](#). This executive order has wide-reaching implications as New York experiences a rise in COVID-19 infections. First, it limits when people may be at bars, restaurants, liquor stores and gyms. Second, it limits “non-essential” gatherings at private residences to 10 or fewer individuals. These measures go into effect on Friday, November 13 at 10 p.m. Below, we discuss the practical implications of Executive Order 202.74.

### Closing Times for Bars, Restaurants, Liquor Stores and Gyms

Executive Order 202.74 sets a 10 p.m. closing time for bars, restaurants, liquor stores and gyms. Restaurants, bars and other businesses licensed by the State Liquor Authority for on premises service of alcoholic beverages must “**cease all on premise service and consumption of food and beverages**” at or before 10 p.m. This means that customers in restaurants and bars may no longer be eating or drinking by 10 p.m. Practically, this means drinks and food must be removed by 10 p.m.

Restaurants and bars with on-premise liquor licenses may continue to-go sales and delivery of food and non-alcoholic beverages after 10 p.m. but **may not** sell or deliver alcoholic beverages after 10 p.m. These to-go activities may only continue until the locally mandated “last call” time. Restaurants and bars with on premise liquor licenses may reopen the next day in accordance with local laws.

Further, this order impacts restaurants that do not have a liquor license. Restaurants without liquor licenses must cease in-person dining at 10 p.m. and may not reopen for in-person dining until 5 a.m. Such restaurants may continue takeout and delivery after 10 p.m. so long as it is otherwise permitted.

Liquor stores and wine stores must close at or before 10 p.m. Such facilities may reopen the next day in accordance with local laws.

Finally, gyms and fitness centers must close to the public at 10 p.m. and cannot reopen until 5 a.m.

### Limits on Non-Essential Private Gatherings

In addition to the limitations described above, Executive Order 202.74 requires that all “non-essential” gatherings occurring at private residences be limited to 10 or fewer individuals. Non-essential gatherings are defined by Executive Order 202.14 as “parties, celebrations, games, meetings or other social events.” It is not a coincidence that New York issued such a restriction before Thanksgiving. Several other states, including Massachusetts, have issued such an order.

This mandate creates different treatment between private and public gatherings. Gatherings held in public spaces—a wedding at a banquet hall, a funeral or a business meeting—are limited to 50 people. Gatherings held at private residences are limited to 10 people. These new private-gathering size limitations suggests to us that more stringent limitations on public-gatherings are likely coming.

Please note, areas in cluster zones have different gathering limitations. Non-essential gatherings in yellow zones are limited to 25 people; in orange zones they are limited to 10 people; and in red zones, non-essential gatherings may not occur. For more information on cluster zones, please see [this article](#).

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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