



June 11, 2020

To: Municipal, Public, Private and Not-for-Profit Entity Applicants

From: Marie Therese Dominguez, Commissioner
New York State Department of Transportation

Re: COVID-19 Economic Recovery Temporary Use Permits

Due to the extraordinary and unprecedented nature of the COVID-19 public health crisis, New York has been “on pause.” As we move NY Forward, opening local economies and fostering business recovery for public and private entities across the state, The New York State Department of Transportation (NYSDOT) has developed a process to allow the review of requests for temporary, alternate uses of State highway rights-of-way. This temporary permit process will facilitate the use of NYSDOT right of way to enhance social distancing for dining and retail if it is determined the requested use can be done safely and in compliance with traffic engineering requirements. Permits will need to be approved by the U.S. Department of Transportation’s Federal Highway Administration (FHWA) pursuant to established procedures prior to issuance.

Entities interested in making such requests, should do so via a new *COVID-19 Temporary Use Permit* application (see attached form *PERM 33g*). Applicants are responsible for requirements for insurance, social distancing plans, speed and other law enforcement, community and emergency services outreach, American’s with Disability Act requirements, and the construction and removal of all associated improvements and site maintenance. As such, an Operations and Safety Plan must be provided, addressing the factors provided in the attached *Operations and Safety Plan COVID-19 Temporary Use Guidelines*, and such additional requirements necessary to provide for the safe and free movement of pedestrian and vehicular traffic.

NOTE: Applications for permits are temporary and may only be granted for a maximum of 120 days.

In compliance with FHWA guidance released pursuant to Presidential Executive Order, any proposed Alternate Uses involving commercial activity on State highway rights-of-way, acquired using Federal funds, may not exceed 120 days in order to be eligible for the regulatory requirement waiver of fair-market value use fees issued by the Federal Highway Administration. Where the proposed alternate use may be in close proximity to or impacted by other proposed alternate uses in an area, the Department recommends that the involved municipality apply on behalf of the involved entities as a group. This would foster

development of an integrated and comprehensive Operations and Safety Plan, as well as aid in expedited

review and approval of applications. Further, it is preferred a municipality consolidates multiple applications and files on behalf of businesses which will allow for expediting the process.

You may direct application submissions and questions regarding the process to your respective NYSDOT Regional Traffic Engineers, listed here:

<https://www.dot.ny.gov/divisions/operating/oom/transportation-systems/traffic-operations-section/highway-permits/reg-contacts>).