



## NYC OUTDOOR DINING FAQ

### GENERAL

#### **Can I re-open for indoor drinking and dining?**

No, indoor service is not permitted in New York City at this time. Only open outdoor dining is permitted, provided that restaurants follow the [guidelines set by NY State](#) and [NYC Department of Health and Mental Hygiene \(DOHMH\)](#).

#### **What is the Open Restaurants program?**

Open Restaurants is a NYC program that allows any food service establishment licensed by DOHMH that has business frontage on the ground floor to use additional public sidewalk or roadway space for outdoor dining.

#### **Can I apply for the Open Restaurants program if I'm on an Open Streets location?**

Yes, establishments that are currently on an Open Streets location may apply for sidewalk and/or roadway seating. To view all Open Street locations visit [nyc.gov/openstreets](http://nyc.gov/openstreets).

#### **What is the application fee for the Open Restaurants program?**

The City does not charge any fees to apply to the program.

#### **What are the daily hours of operation for the Open Restaurants Program?**

Open Restaurant seating may be in use:

Monday-Saturday: 8am-11pm

Sunday: 10am-11pm

#### **What are the social distancing requirements for outdoor dining?**

Patrons from the same party may sit next to each other in bar areas or at communal tables, provided the party is 10 or less people. Patrons of different parties must be separated by at least 6 feet or physical barriers whether at bar stools or communal tables.

#### **Can I place a cover above my tables to prevent patrons from getting wet if it rains?**

Yes, outdoor service may occur under a temporary or fixed cover (e.g., awning or roof) so long as such cover has at least two open sides for airflow.

#### **Is Open Restaurant seating ADA accessible?**

Yes, the City requires all Open Restaurant seating to be ADA compliant. Visit MOPD's Small Business Resources page for guidance (<https://www1.nyc.gov/assets/mopd/downloads/pdf/Open-Restaurant-Accessibility.pdf>)

## FOOD AND ALCOHOL

### **Can I serve alcoholic beverages in the outdoor dining area as part of the Open Restaurants program?**

Yes, if your establishment is authorized to participate in the Open Restaurants program and licensed by the State Liquor Authority, you can serve alcohol on public sidewalks and streets.

### **Is the seating exclusive to my business and can I serve food?**

Yes, seating is exclusive to your business and table service is allowed.

### **Can patrons eat and drink while standing?**

No, food and drink cannot be consumed while standing, regardless of phase.

- All consumption must be while seated at tables, bars, counters, etc.
- Individuals may not stand and congregate. Congregating other than persons seated at tables is not permissible.
- All persons who are not seated should be encouraged to wait in their vehicle and/or leave the premises.
- Patrons should stand only for necessary reasons (e.g., restroom, entering/exiting).

### **Is my business required to sell food to people in order to serve them alcohol?**

It depends. Only restaurants and bars whose liquor licenses require that they make food available to patrons are required to sell food along with any alcohol purchase. Specifically, businesses operating under these licenses must only serve alcohol to people who also order food, and all service at bar tops must only be for seated patrons who are socially distanced by 6 feet or separated by physical barriers.

### **If I am required to serve food as a condition of my on premise liquor license, what food is permissible?**

- For manufacturers with on-premises service privileges (e.g., manufacturers with tasting rooms), the food item must be:
  - A sandwich, soup or other such food, whether fresh, processed, pre-cooked or frozen; and/or a food item intended to compliment the tasting of alcoholic beverages (such as cheese, fruits, vegetables, chocolates, breads, mustards and crackers).
- For other on-premises retailers, the food item must be:
  - A sandwich, soup or other food, whether fresh, processed, precooked or frozen.
- For a party with multiple patrons, one shareable food item in one of these categories may be purchased as long as it would sufficiently serve the number of people in the party.
- A bag of chips, bowl of nuts, or candy alone is insufficient to meet the “food” requirement.

### **In addition to sandwiches and soups, what types of “other food” are permissible?**

In general, the food sold must be similar in quality and substance to sandwiches and soups. For example, salads, wings, or hot dogs would be of that quality and substance, as well as substantial dessert items such as pieces of cake/pie and ice cream sundaes.

### **Does a bag of chips suffice?**

No. Items such as a bag of chips, a bowl of nuts, or small sweets like candy or a cookie are insufficient. A drink with whipped cream is also insufficient. Restaurant and bar owners should keep in mind the purpose of this policy: to ensure that patrons are enjoying a sit-down dining experience among a small group with drinks, i.e. a meal, and not a drinking, bar-type experience.

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**Must a patron order food with each alcoholic beverage ordered?**

No. As long as the food ordered when placing the original drink order is sufficient in substance (see above) and quantity based on the number of people in the party, there is no need to order additional food.

**I am required to make food available to patrons as a condition of my liquor license. Can I make a food truck available to patrons to meet this requirement?**

No. If you are required to make food available, then that food must be available on your premises to be ordered – it cannot be delivered at the time of order, and a patron should not have to leave the premises to get it. Furthermore, the law prohibits a second business from operating on a licensed premises.

**My bar did not offer table service prior to now. If all patrons need to be seated, do I now need to offer table service?**

No, but walk-up ordering at a bar counter is subject to the following restrictions:

- (1) all patrons ordering and all employees taking orders must wear appropriate face coverings, pursuant to the NY State Department of Health's interim guidance,
- (2) all patrons (who are of separate parties) that are ordering from the bar/counter must be spaced at least 6 feet apart, pursuant to the NY State Department of Health's interim guidance,
- (3) at no time shall more than 5 patrons be standing at the bar/counter at the same time,
- (4) markings shall be placed on the floor to indicate proper spacing,
- (5) once an order is made, patrons should either receive their food and/or drink then, or return to their table and wait until called to pick up their order, i.e., patrons should be at the bar/counter only to place, pay for, or receive an order.

## ENTERTAINMENT

**Can I have live entertainment or a DJ in my outdoor dining area?**

It depends on your license. Restaurants and other on-premises food and beverage establishments that have a license through the State Liquor Authority (SLA) are only allowed to offer on-premises music if their license certificate specifically allows for such activity.

**Can I use the seating area for any other forms of live entertainment?**

No. All other forms of live entertainment (e.g., exotic dancing, comedy shows, etc.), are not permissible.

**My license allows for dancing and/or on-premises services. Are they allowed?**

No, dancing and bar games (e.g., darts, pool, cornhole) are not allowed.

## MISCELLANEOUS

**Can I have food and drink on a golf course?**

Yes, food/drink can be consumed on a golf course as long as patrons follow all applicable guidance and/or laws.

8/3/2020

**Can I conduct tastings?**

Yes, liquor stores, manufacturers, bars, restaurants may conduct tastings consistent with the guidance on outdoor food service.

**Are sightseeing boats allowed to serve food and drink?**

Only sit-down, outdoor dining on docked sightseeing boats is allowed in NYC at this time, subject to all applicable State and local guidance and licensing requirements. Indoor and outdoor food and beverage services are not permitted on sightseeing boats that are not docked.

**ENFORCEMENT**

**Who is conducting inspections?**

Inspectors will make both proactive and complaint-driven visits. Restaurants may expect visits from the NYC Department of Health and Mental Hygiene, NYC Department of Transportation, Mayor's Office of Special Enforcement, and State agencies, among others.

**What happens if I don't adhere to the rules of the Open Restaurants program?**

It is the applicant's responsibility to comply with the terms and conditions required by the City of New York's Open Restaurants program. Failure to comply increases your risk of receiving notice to remedy the deficiencies. If you fail to comply after such notice, the City will actively enforce all laws and rules, including but not limited to revocation of your Open Restaurants permit and involvement of the State Liquor Authority.

**What are some helpful resources?**

- <https://www1.nyc.gov/html/dot/html/pedestrians/openrestaurants-faq.shtml>
- <https://sla.ny.gov/guidance-requirement-licensees-premises-service-privileges-serve-food-alcoholic-beverages>
- <https://sla.ny.gov/new-york-state-liquor-authority-guidance-outdoor-expansion-licensed-premises-response-covid-19>
- <https://www1.nyc.gov/site/doh/covid/covid-19-businesses-and-facilities.page>
- [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Food\\_Services\\_Summary\\_Guidelines.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Food_Services_Summary_Guidelines.pdf)
- <https://sla.ny.gov/phase3-guidelines-for-on-premises-licenses>
- <https://www1.nyc.gov/nycbusiness/article/nyc-restaurant-reopening-guide>
- <https://www1.nyc.gov/assets/mome/pdf/nyc-restaurant-bar-reopening-toolkit-july-2020.pdf>
- <https://www1.nyc.gov/assets/mome/pdf/socialize-responsibly-ny-2.pdf>