

# Department of City Planning Compliance Protocols for Privately-owned Public Spaces

For the duration of [Emergency Executive Order No. 128](#), and as detailed below, the Department of City Planning (DCP) is permitting certain temporary uses to occur within Privately-owned Public Spaces (POPS) such as private outdoor dining areas, health screening stations, queuing areas, signage related to COVID messaging, kiosks, retail merchandizing stands and bikeshare docks. DCP is also permitting temporary and limited closure of indoor POPS and measures to ensure physical distancing and safe use of POPS. As provided below, the owner or authorized representative of each POPS must inform DCP of any changes proposed for a POPS, and all such changes must be in compliance with the DCP Protocols outlined below.

Upon expiration or lifting of [Emergency Executive Order No. 128](#), all temporary uses within a privately owned public space associated with the Executive Order must be removed, and the space must be restored to its compliant state. Failure to do so may result in a Department of Buildings violation.

## Required Notification of Changes to DCP

Before any temporary changes are made to a POPS pursuant to [Emergency Executive Order No. 128](#) and these Protocols, property owners or authorized representatives must send DCP a notification of changes, consisting of:

1. A written description detailing the changes and confirming compliance with these DCP Protocols, and
2. A site plan of the POPS, drawn to scale, clearly delineating the area(s) where the changes have been made. The site plan should ideally be based on existing, approved POPS site plans, however DCP will accept alternatives provided they are drawn to scale and clearly identify the areas where changes have been made. Site plans do not need to be signed or sealed by a licensed professional.

Notifications should be emailed to [POPSCOVID\\_DL@Planning.nyc.gov](mailto:POPSCOVID_DL@Planning.nyc.gov).

## **Hours of Operation**

### **Outdoor and open-air POPS**

All outdoor and open-air POPS are required to remain open for their approved hours of public access.

POPS remain critically important for all New Yorker's access to open space, fresh air, and areas of respite in the densest parts of the city during this time. Many provide additional circulation space adjacent to sidewalks, allowing pedestrians to practice safe physical distancing.

### **Indoor and enclosed POPS**

Indoor POPS are permitted to close. However, all indoor POPS must continue to provide any required access to subway connections, through-block connections, or sole connection to a lawfully open and operating business. Where public access is maintained, all required fixed seating within the space may be restricted by the use of tape or signage, and all required moveable seating may be temporarily removed, and is not subject to the provisions below regarding "Reduction of Required Amenities".

## **COVID-19-related Signage**

Additional signage is permitted within the POPS related to COVID-19 messaging to remind users to follow current health guidance and executive orders. Signs are also permitted to describe any cleaning protocols occurring within the POPS. All public health and safety information provided on signs must be consistent with State and City guidelines. Signs may not assign or detail responsibility for health risks nor assess the possibility of contracting COVID-19 related to use of POPS.

## **Reduction of Required Amenities**

### **Fixed Seating**

All required fixed seating must physically remain in all POPS, but the amount of seating may be reduced as detailed below. Temporary restrictions can be achieved by using bright tape and/or signage to promote physical distancing and remind users to adhere to such rules while within the space.

The following protocols apply:

- Up to 50% of required fixed seating may be restricted through the use of tape or signage to notify users.
- Physical barriers that obstruct seating are not permitted.
- Entire clusters of fixed seating may not be restricted. For example, an entire bench may not be taped as closed.

## Permitted



## Not permitted



Image credit: [https://www.instagram.com/tape\\_measures/](https://www.instagram.com/tape_measures/)

## Movable Tables and Chairs

All required movable tables and chairs must continue to be provided and accessible. They are permitted to be relocated within POPS areas not specified on approved plans to allow for physical distancing. They should not be located within five feet of any building entrance, or within any required circulation paths.

## Drinking Fountains

Drinking fountains shall be operable and accessible unless otherwise restricted by Department of Parks and Recreation and /or the Department of Health and Mental Hygiene guidelines.

## Play Areas

Play areas and playgrounds shall be open and accessible unless otherwise restricted by Department of Parks and Recreation and /or the Department of Health and Mental Hygiene guidelines.

## **Restaurants, Cafes and Retail Establishments Adjacent to POPS**

### **Private Outdoor and Indoor Dining Areas**

Restaurants and cafés may expand into adjacent POPS to increase seating capacity for the duration of the emergency order, as detailed below.

The following protocols apply to both private outdoor and indoor dining areas in POPS:

- The dining area should be located directly adjacent to the restaurant, café, or other serving establishment.
- One dining area is permitted per restaurant, café or serving establishment.
- The total area dedicated to dining in each POPS shall not exceed the amount detailed below:
  - For POPS without Open Air Café certification pursuant to ZR 37-73: 20% of the total area of the POPS;
  - For POPS with an Open Air Café certification pursuant to ZR 37-73: 30% of the total area of the POPS;
- If multiple dining areas are located within a POPS, the aggregate of all dining areas within the POPS shall not exceed the applicable maximum percentage (20% or 30%) of the total POPS area.
- The dining area must not obstruct any required circulation paths.
- No furnishings are permitted within 5 feet of building entrances that are not associated with the restaurant, café or other serving establishment.
- The dining area may contain temporary, substantially transparent, easily movable barriers to delineate the dining area.
- The dining area may contain temporary shade structures, such as umbrellas.

In addition, the following protocols apply to private outdoor dining areas in POPS:

- Outdoor dining areas may be in operation Monday-Saturday: 8 a.m.-11 p.m., Sunday: 10 a.m.-11 p.m.
- Outdoor dining areas may contain removable heat lamps.
- Outdoor dining areas may contain temporary dining enclosures.
- Outdoor dining areas must not block standpipes or siamese connections.
- The dining area must not occupy more than 1/3 of any street frontage, if located along the street edge, except for dining areas in Arcades, Sidewalk Widening, Pedestrian Circulation Spaces, and Plazas with a depth of 10 feet or less as measured perpendicular from the street line.
- For Arcades, Sidewalk Widening, Pedestrian Circulation Spaces, and Plazas with a depth of 10 feet or less as measured perpendicular from the street line: outdoor dining areas may occupy such areas without limitation provided that access to building entrances is maintained and adequate circulation space is available on adjoining sidewalks or POPS

In addition, the following protocols apply to private indoor dining areas in POPS:

- Indoor dining areas may not be in use between midnight (12:00 a.m.) and 5:00 a.m..
- Indoor dining areas must comply with indoor capacity limits and service and operation requirements consistent with State and City requirements.

## **Kiosks**

Kiosks are permitted in POPS for the duration of the emergency order in accordance with the following protocols:

- The kiosk must be a one-story temporary structure that is substantially open and transparent.
- Each kiosk must not occupy an area in excess of 100 square feet per kiosk, including roofed areas.
- Kiosk placement must not impede or be located within any required circulation path.
- Kiosks may be occupied only by uses permitted by the applicable district regulations such as news, book or magazine stands, food or drink service, flower stands, information booths, or other activities that promote the public use and enjoyment of the POPS.

## **Retail**

Retail stores that front a POPS may temporarily occupy an area of a POPS for merchandizing, point of sale or product pick-up activities.

The following protocols apply:

- The merchandizing area must be directly adjacent to associated retail store.
- The merchandizing area must not obstruct any required circulation paths.
- Merchandizing areas are permitted to occupy a maximum of 10% of the total area of the POPS. If multiple merchandizing areas are located within a POPS, the aggregate of the merchandizing areas shall not exceed a maximum of 10% of the total POPS area.
- The merchandizing area must not exceed the length of the associated retail frontage.
- Merchandizing areas may contain temporary shade structures and other apparatus necessary to conduct retail merchandizing

## **Addition of Public Movable Tables and Chairs**

Additional movable tables and chairs beyond what are required or indicated on approved plans may be temporarily placed in POPS. Movable tables and chairs can be used

for a variety of purposes, including to enjoy take-away food and beverages from nearby grocers, bodegas, restaurants, and cafes.

Furnishing protocols:

- All furnishings shall be moveable and made of high quality and durable materials.
- Tables and chairs shall not be chained, fixed, or otherwise secured between the hours of 7:00 a.m. and 9:00 p.m., but may be stored or secured between the hours of 9:00 p.m. and 7:00 a.m.

No furnishings, including storage of furnishings, shall be permitted within 5 feet of any building entrance, nor shall they be permitted within any required circulation paths

## **Office and Commercial Building Operations**

To facilitate reopening of commercial and office buildings, temporary uses to facilitate building operation are permitted to occur within POPS, as detailed below.

### **Queuing**

Commercial or office buildings fronting onto a POPS may use areas adjacent to the to the building's primary entrances for entry queuing into the building and may designate the location and direction of queuing by the use of tape and rope stanchions. Rope stanchions may only be located within the POPS during business opening hours and shall be fully removed from the POPS when not in use. Queuing areas shall not obstruct any required amenities or required circulation paths and shall not substantially interfere with the public's use and enjoyment of the POPS.

### **Shade and Weather Protection Structures**

The use of temporary tents, marquees or other shading structures is permitted for shading health screening stations and personnel to allow for screening of tenants and/or visitors entering a commercial or office building fronting onto the POPS. The use of shading structures to cover entire queuing areas within a POPS is not permitted.

## **Bike Parking**

### **Bikeshare**

Bikeshare docking stations and associated bicycles may be located within POPS for the duration of the emergency order, pursuant to agreement with the Department of Transportation or bikeshare contractor.

### **Bike Racks**

Bike racks are permitted to be located within POPS for the duration of the emergency order. Bike racks must be located within close proximity to the adjacent sidewalk.

## **Periodic Compliance Reporting**

On May 24, [Emergency Executive Order No. 115](#) suspended section 37-78(b) of the Zoning Resolution concerning periodic compliance reporting and Section 25-114(f) of the Administrative Code concerning inspections of POPS to the extent such provisions impose deadlines for inspections or submission of compliance reports, and such deadlines are tolled for the duration of the state of emergency.

## **Signage Requirements**

On April 19, [Emergency Executive Order No. 108](#) suspended Section 11-06 of title 62 of the Rules of the City of New York concerning POPS signage requirements to the extent such section imposes a deadline for the submission of a complete design review package by an owner of POPS that does not have previously approved signage, or that does have previously approved signage that does not include a statement that such space is open to the public and hours such space is open, and order that such deadline is tolled for the duration of the emergency.

## **Contact**

If you have a question regarding the DCP Compliance Protocol for POPS, please email [POPSCOVID\\_DL@planning.nyc.gov](mailto:POPSCOVID_DL@planning.nyc.gov)

For Press inquiries please email [press@planning.nyc.gov](mailto:press@planning.nyc.gov)

For more information about POPS, please visit <https://www1.nyc.gov/site/planning/plans/pops/pops.page>

For more information about COVID-19 and a guide on how to stay safe please visit [www.nyc.gov/coronavirus](http://www.nyc.gov/coronavirus)

## **Comments and complaints**

Comments and complaints regarding a POPS can be submitted [via NYC 311 here](#).