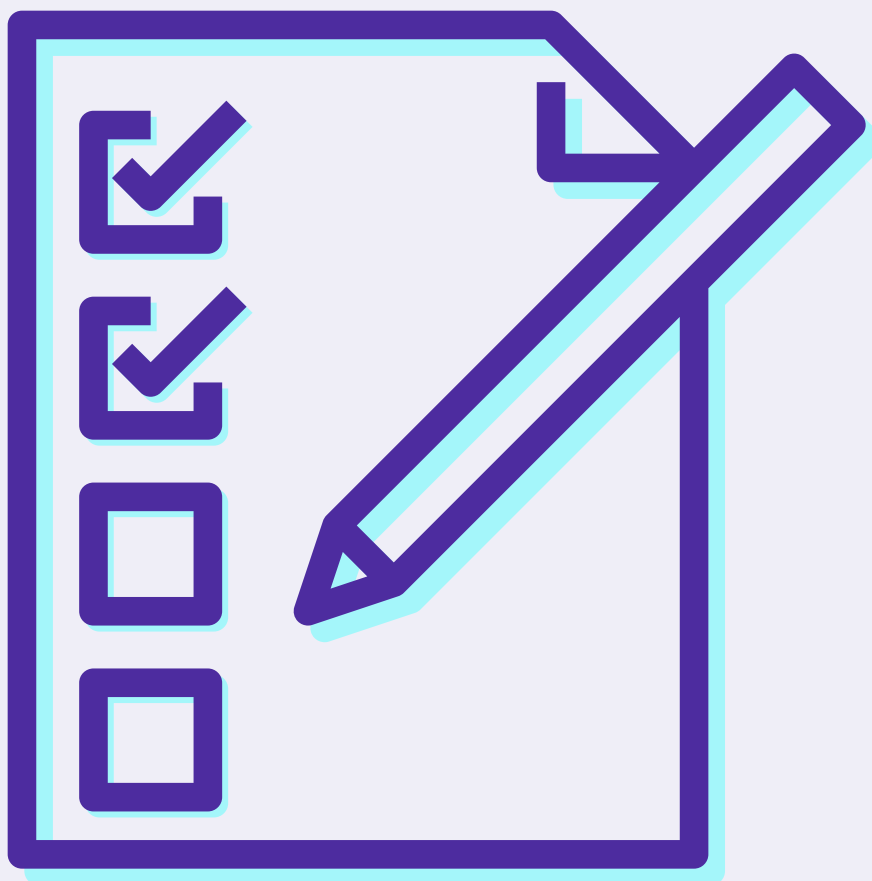


What to Expect When You're Inspected:

NYC Open Restaurants Program Checklist for Participating Establishments



Introduction

The **NYC Open Restaurants Program** is designed to expand outdoor seating options for food establishments to promote open space, enhance social distancing, and help them rebound in these difficult economic times. As of the third week of July 2020, almost nine thousand New York City restaurants are participating in the Open Restaurants Program.

A multi-agency task force, comprised of the NYC Departments of Small Business Services, Transportation, Health, and the Offices of Nightlife and Special Enforcement, has created this NYC Open Restaurants Program Checklist for Participating Establishments to help participants comply with program-specific and Covid-19 health and safety requirements, and prepare for inspections. Please be sure that you have reviewed each requirement and that you have incorporated all of them into your outdoor setup and daily operations.

The checklist provided in this document lists the guidelines often found to be non-compliant by inspectors. **Highlighted in blue are the most common items of non-compliance.** Please note that this checklist is not comprehensive, and does not include all of the federal, states, and local laws that apply to food establishments. It **MOSTLY** refers to new requirements related specifically to the **Open Restaurants Program and Covid-19-related measures** from City and State agencies. These requirements include:

- **New York State Laws and Guidelines, including Executive Orders for Food Service**
- **New York State Personal Protective Equipment (PPE) requirement**
- **NYC Department of Transportation Open Restaurant Guidelines**
 - **Outdoor Seating, Sidewalks**
 - **Outdoor Seating, Roadways**
- **Accessibility Guidelines**

All guidance is subject to change, so please make sure to continually review updates from City and State agencies.

We hope that with this Checklist, you will feel more confident in your operations and your ability to assure your workers' and patrons' safety. Following this Checklist is the best way for New York and our beloved hospitality industry to keep moving forward together.

Important Notes on Inspections

- **Your establishment may be visited by inspectors from different state and city agencies.**

For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation's Open Restaurants Program guidelines or the State's Department of Health's Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

- **Inspector Identification**

However, no matter which agency inspectors are from, you may ask them to show government employee identification, give you the name of their agency, as well as the purpose of the inspection. In addition, no inspector will request a payment during an inspection.

- **After Your Inspection**

Once your establishment is found to be in full compliance with the Open Restaurants requirements, **please continue to check with City and State agencies for any updates** on requirements to ensure that your establishment continues to be in compliance. You may visit the [NYC Restaurant Reopening Guide](#) web page for updated guidelines and rules.

Responding to NYC Department of Transportation (DOT) Open Restaurants inspections

Establishments not in compliance with the Open Restaurants requirements will receive both a paper notice and an email with instructions on next steps. If you have been inspected regarding the Open Restaurants requirements and have NOT received follow-up instructions,

Please email restaurantreports@dot.nyc.gov with:

- **Copy of "24-hour Notice" or "Cease and Desist" order**
- **Name of your establishment**
- **Legal name of business**
- **Business address**
- **Phone number**
- **Email address**
- **Corrected "before and after" photographs**
 - Please keep photo uploads to **15MB TOTAL**, otherwise your email will be too big and will not be able to be delivered to DOT

Governor's Executive Orders for Outdoor Dining

Under Governor's Executive Order 202.43, in addition to such businesses' supervisory obligations under existing laws, ordinances, rules, and regulations, all businesses shall be further required to **inspect, monitor, and otherwise supervise the area within 100 feet of the licensed premises to ensure that any consumption of food or beverage comports with the applicable open container ordinances, and the social distancing and face covering requirements set forth** for such business or service in any applicable Executive Order, regulation, ordinance, law, New York State Department of Health guidance, and/or State Liquor Authority guidance.

- **Read the full text of EO 202.43 here** (Available in English, Bengali, Chinese, Haitian-Creole, Korean, Russian, and Spanish)
 - www.governor.ny.gov/news/no-20243-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency

Under the Governor's Executive Order 202.52, all businesses that are licensed by the State Liquor Authority for on premises service of alcoholic beverages, and which are required as a license condition to make food available, shall **serve alcoholic beverages for on premises consumption or for off premises consumption only if the service of such alcoholic beverage is accompanied by the purchase of a food item by each individual that is being served an alcoholic beverage**, consistent with the food availability requirement of the license under the Alcoholic Beverage Control Law.

- **Read the full text of EO 202.52 here** (Available in English)
 - www.governor.ny.gov/news/no-20252-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency
- **Additional guidance from the NY State Liquor Authority**
 - sla.ny.gov/guidance-requirement-licensees-premises-service-privileges-serve-food-alcoholic-beverages

NY State Safety Guidelines

This section outlines items that are required by the [NYS Department of Health Interim Guidance for Outdoor and Take-out/Delivery Food Service](#). Please continue to regularly check the [New York Forward](#) site for guidance that is applicable to your business or certain parts of your business functions, and consult the city, state, and federal resources listed at the end of this document.

Your establishment may be visited by inspectors from different state and city agencies. For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation's Open Restaurants Program guidelines or the State's Department of Health's Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

✓	Item for Compliance	Agency Issuing Guidance
	<p>Develop and conspicuously post a copy of your business's Covid-19 Reopening Safety Plan on premise</p> <p>Under the NYS Department of Health Interim Guidance for Outdoor and Take-Out/Delivery Food Service, restaurants and bars must develop a written Safety Plan outlining how its workplace will prevent the spread of Covid-19. A business may fill out this template to fulfill the requirement, or may develop its own Safety Plan.</p> <p>This plan does not need to be submitted to a state agency for approval but must be conspicuously posted on site and made available to the New York State Department of Health (DOH) or New York City health or safety authorities upon request</p>	<p>NY State Department of Health</p>
	<p>Maintain a record indicating a health screening process in place for employees (See NYS Safety Plan Template for example)</p>	<p>NY State Department of Health</p>
	<p>Implement markings 6 feet apart where people would be forming lines or gathering</p>	<p>NY State Department of Health</p>
	<p>Create designated area for vendor pickups and deliveries</p>	<p>NY State Department of Health</p>
	<p>Maintain a log stating the date, time, and scope of cleaning and disinfection</p>	<p>NY State Department of Health</p>

NY State Safety Guidelines (Continued)

Your establishment may be visited by inspectors from different state and city agencies. For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation's Open Restaurants Program guidelines or the State's Department of Health's Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

✓	Item for Compliance	Agency Issuing Guidance
	<p>Signage at the site to remind personnel to adhere to proper hygiene, social distancing rules, appropriate use of PPE, and cleaning and disinfecting protocols</p>	<p>NY State Department of Health</p>
	<p>Hand-washing facility provided near food preparation area and toilet room</p> <p>Hot and cold running water must be at an adequate pressure to enable cleanliness of employees. Soap and an acceptable hand-drying device must also be provided.</p> <p>Additionally, businesses should make hand sanitizer available throughout high touch areas (e.g. outside restrooms) and in convenient locations, such as at entrances, exits, cashiers. Touch-free hand sanitizer dispensers should be installed where possible.</p>	<p>NY State Department of Health</p>

Personal Protective Equipment

This section outlines New York State's Personal Protective Equipment (PPE) requirement.

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✓	Item for Compliance	Agency Issuing Guidance
	Provide employees with acceptable face coverings at no-cost to employees; ensure that employees wear face coverings; and have an adequate supply of coverings.	NY State Department of Health



Example of face covering for employees
(Photo: Ketut Subiyanto)

Free face coverings for your employees

The Departments of Small Business Services and Consumer and Worker Protection, and our partners are distributing over 2 million face coverings at no cost to small business owners and their employees.

Visit www1.nyc.gov/nycbusiness/article/free-face-coverings to learn more.

NYC Open Restaurants Program Requirements

This section outlines requirements of the NYC Department of Transportation's NYC Open Restaurants Program. Food service establishments wishing to place outdoor seating in front of their establishment on the sidewalk and/or roadway must apply for permission from the NYC Department of Transportation.

Note that all businesses wishing to offer outdoor seating, even those with pre-existing sidewalk cafe permits, must self-certify with DOT for the Open Restaurant program. You do not need to apply to place outdoor seating on private property, but you must apply to SLA if your license does not allow you to use this additional space.

Your establishment may be visited by inspectors from different state and city agencies. For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation's Open Restaurants Program guidelines or the State's Department of Health's Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

✓	Item for Compliance	Agency Issuing Guidance
	Apply and obtain certificate authorizing approval for the NYC Open Restaurants Program	NYC Dept. of Transportation



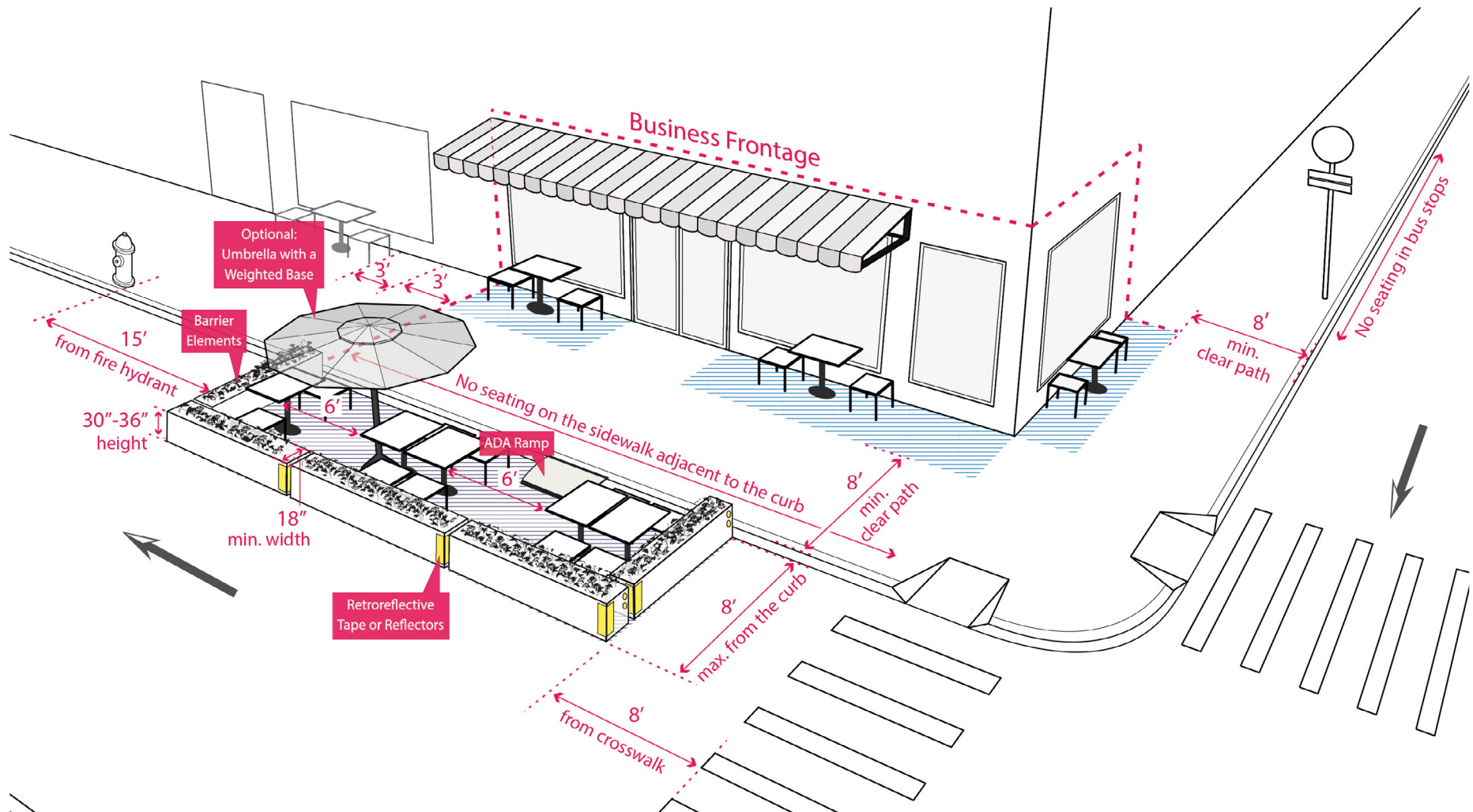
Restaurant participating in NYC Open Restaurant Program (Photo: NYC and Company)

As a reminder...

The NYC Open Restaurants Program outdoor dining hours of operation are:

- **Monday through Saturday**
 - 8 am to 11 pm
- **Sunday**
 - 10 am to 11 pm

NYC Open Restaurants Program Siting Criteria



*PLEASE NOTE:

Failure to comply with NYC Open Restaurants requirements may result in suspension or revocation of permission to participation in the Open Restaurants Program.

NYC Open Restaurant Program Requirements - All Outdoor Seating

Your establishment may be visited by inspectors from different state and city agencies. For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation's Open Restaurants Program guidelines or the State's Department of Health's Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

✓	Item for Compliance, All Seating	Agency Issuing Guidance
	<p>Tables and chairs must be provided by the operating business</p> <p>Wherever social distancing is not feasible between tables, place physical barriers between such tables. Address the NYS Outdoor Takeout Delivery and Food Services Summary Guidance document for further information.</p>	<p>NYC Dept. of Transportation</p>
	<p>Outdoor seating areas may not exceed business frontage</p>	<p>NYC Dept. of Transportation</p>
	<p>Provide a ramp for ADA compliance, which can be made of non-permanent materials</p>	<p>NYC Dept. of Transportation</p>
	<p>Only utilize umbrellas with a weighted base or properly secured tents</p> <p>Umbrellas may not extend past the barrier or obstruct access to ventilation of utility covers. Tents or other shelters must be less than 400 SF each in area. Please consult DOB Bulletin 2020-013 for further information.</p>	<p>NYC Dept. of Transportation</p>
	<p>Temporary lighting, such as festoon lighting, is allowed.</p> <p>Use only outdoor-use extension cords, with accessible, protective covers when placed across the sidewalks, and install properly to prevent tripping hazards. Follow manufacturers safety instructions. Please consult DOB Bulletin 2020-013 for further information.</p>	<p>NYC Dept. of Transportation</p>
	<p>Remove tables and chairs or secure them in place when not in operation</p> <p>As a reminder, outdoor dining hours of operation are Monday–Saturday: 8am to 11pm, Sunday: 10am to 11pm</p>	<p>NYC Dept. of Transportation</p>
	<p>Comply with NYC Fire Department Open Flame and other applicable Fire Code requirements</p>	<p>NYC Dept. of Transportation</p>

NYC Open Restaurant Program Requirements - Outdoor Seating, Roadway

Your establishment may be visited by inspectors from different state and city agencies. For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation's Open Restaurants Program guidelines or the State's Department of Health's Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

✓	Item for Compliance, Roadway Seating	Agency Issuing Guidance
	<p>Create a protective barrier, on all three sides of the seating perimeter that are in the roadway, to separate seating from the travel lane.</p> <p>Such barriers must be at least 18 inches in width and 30 to 36 inches in height (excluding plantings) on all three sides that are in the roadway, to preserve visibility for motorists and provide protection for patrons</p>	<p>NYC Dept. of Transportation</p>
	<p>Place such barriers directly adjacent to each other (i.e. with no gaps) and no more than 8 feet from the curb</p>	<p>NYC Dept. of Transportation</p>
	<p>Clearly marking all barriers with yellow high intensity retro-reflective tape or reflectors to ensure visibility of patrons and barriers at night</p>	<p>NYC Dept. of Transportation</p>
	<p>Ensure that seating or barriers are NOT within 15 feet of a fire hydrant</p>	<p>NYC Dept. of Transportation</p>
	<p>Ensure seating or barriers are NOT within 8 feet of a crosswalk, to provide for safe vehicle turns and avoid crowding</p>	<p>NYC Dept. of Transportation</p>
	<p>Ensure that any lighting that is NOT blinding to passing traffic</p>	<p>NYC Dept. of Transportation</p>
	<p>Do NOT place seating within a No Stopping Anytime or No Standing Anytime zone, bike lane, bus lane/stop, taxi stand, or Car Share space</p> <p>Exception: For part-time No Stopping or No Standing zones, seating may be placed when those rules are not in effect. Barriers and seating must be removed from the roadway when No Stopping or No Standing is in effect.</p>	<p>NYC Dept. of Transportation</p>

NYC Open Restaurant Program Requirements - Outdoor Seating, Sidewalk

Your establishment may be visited by inspectors from different state and city agencies. For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation's Open Restaurants Program guidelines or the State's Department of Health's Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

✓	Item for Compliance, Sidewalk Seating	Agency Issuing Guidance
	Seating and tables must be up against the wall of the business or as close as possible	NYC Dept. of Transportation
	Leave a clear path for pedestrians that is 8 feet wide. For clear path purposes, parking meters, traffic signs and tree pits with flush gratings (without tree guards) are exempt.	NYC Dept. of Transportation
	Seating must be at least 3 feet from the adjacent business	NYC Dept. of Transportation
	Operations are not blocking subway grate, utility hardware or Siamese water connection	NYC Dept. of Transportation
	Operations are not blocking bus stop waiting area	NYC Dept. of Transportation
	There are no other above-grade structures that could be considered obstructions	NYC Dept. of Transportation

***PLEASE NOTE:**

Failure to comply with NYC Open Restaurants requirements may result in suspension or revocation of permission to participation in the Open Restaurants Program.

Accessibility Requirements

This section outlines accessibility items that are required by the Americans with Disabilities Accessibility Act (ADA).

Your establishment may be visited by inspectors from different state and city agencies. For example, an inspector from any city agency, including the Department of Buildings, the Department of Health and Mental Hygiene, the Office of Special Enforcement, the New York City Sheriff, or others may inspect your outdoor dining establishment for compliance with the Department of Transportation’s Open Restaurants Program guidelines or the State’s Department of Health’s Guidelines related to Covid-19. All pre-existing health and safety laws and guidelines still apply and you may also be inspected for compliance with those rules.

✓	Item for Compliance	Agency Issuing Guidance
	<p>Toilet facility provided for employees and/or patrons when required</p> <p>Restrooms must comply with ADA regulations when applicable. If your business had to provide restroom access to customers pre-Covid then you must continue to provide access when seating outdoors.</p>	
	<p>Businesses must have in place an ADA ramp in the curb lane seating area AND a minimum of 5 percent ADA-compliant tables in both sidewalk and curb lane seating areas</p> <p>Establishments that have both roadway and sidewalk seating must provide accessible tables in both seating areas; failing to do so may be discriminatory because the experience of dining in a roadway is different than dining on a sidewalk.</p>	<p>NYC Dept. of Buildings</p>

Routine inspections

Establishments must still meet previously existing health and safety laws and requirements to operate. Below are links to guidance on what to expect from agencies on their routine inspections as provided by the City and State Agencies.

- **Common Fines and Violations**
 - **For Restaurants** www1.nyc.gov/nycbusiness/commonviolations/restaurant
 - **For Bars** www1.nyc.gov/nycbusiness/commonviolations/bar
 - **Learn more at** www1.nyc.gov/nycbusiness/commonviolations/default
- **NYC Department of Health and Mental Hygiene**
 - **Inspections:** www1.nyc.gov/site/doh/business/food-operators/the-inspection-process.page
 - **Food Preparation and Food Establishments:** www1.nyc.gov/assets/doh/downloads/pdf/rri/article81-book.pdf
- **NYC Department of Buildings**
 - **Inspections** www1.nyc.gov/site/buildings/business/inspections.page
- **NYC Fire Department**
 - **Inspections** www1.nyc.gov/site/fdny/business/inspections/inspections.page
- **NYC Department of Environmental Protection**
 - **Noise Code** www1.nyc.gov/site/dep/environment/noise-code.page
- **Mayor's Office for People with Disabilities**
 - **ADA Resources** www1.nyc.gov/site/mopd/resources/small-business-resources.page
- **NYS Liquor Authority**
 - **What to Know if You're a Liquor-Licensed Retailer** www.sla.ny.gov/what-you-need-know-if-youre-licensed-retailer

Additional links and resources

Scan QR Code or visit One-Stop Shop website for more information and downloads

nyc.gov/restaurantreopening



- **NY Forward Summary Guidelines for Outdoor and Take-Out/Delivery Food Services:** www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/OutdoorTakeoutDeliveryFoodServicesSummaryGuidance.pdf
- **NYC Open Restaurants**
 - **Virtual Compliance Consultation:** sbsconnect.nyc.gov/services/select-business/?action=vcc
 - **Brochure:** www1.nyc.gov/html/dot/html/pedestrians/openrestaurants.shtml#resources
 - Available in English, Arabic, Bengali, Chinese, French, Haitian Creole, Korean, Polish, Russian, Spanish or Urdu
 - **FAQ with Translations:** www1.nyc.gov/html/dot/html/pedestrians/openrestaurants-faq.shtml
 - **Supplemental FAQ:** www1.nyc.gov/assets/sbs/downloads/pdf/businesses/NYC%20Open%20Restaurants%20-%20Supplemental%20FAQ.pdf
 - **Department of Buildings Bulletin:** www1.nyc.gov/assets/buildings/bldgs_bulletins/bb_2020-013.pdf
 - Describes when a DOB permit application is not required for the reopening of restaurants and bars
- **NYC Open Streets**
 - **Restaurant Guidelines:** www1.nyc.gov/html/dot/downloads/pdf/open-streets-restaurants-guidelines.pdf
- **Directory of Equipment Rentals for Safe Outdoor Dining:** www1.nyc.gov/assets/sbs/downloads/pdf/businesses/Directory%20-%20Outdoor%20Dining%20Equipment.pdf
- **PPE + Reopening Supplies Marketplace:** maiic.nyc/reopening-supplies/
- **NYC Office of Nightlife “It’s Up to You, New York” Socialize Responsibly Campaign Poster:** on.nyc.gov/3eo0ECA

Connect with us

- **NYC Department of Health and Mental Hygiene**
 - **Website:** nyc.gov/health
- **NYC Department of Small Business Services**
 - **Website:** nyc.gov/business
 - **Restaurant Reopening Hotline: 888-SBS-4NYC** (888-727-4692)
- **NYC Department of Transportation**
 - **Website:** nyc.gov/dot
- **NYC Office of Nightlife at the Mayor's Office of Media and Entertainment**
 - **Website:** nyc.gov/nightlife
 - **Email:** nightlife@media.nyc.gov
 - **FB:** facebook.com/nycnightlifegov
 - **IG:** instagram.com/nycnightlifegov



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and Entertainment
Office of Nightlife