



In support of a permanent program for outdoor dining

Good morning. My name is Kathleen Reilly, and I am the New York City Government Affairs Manager for the New York State Restaurant Association. We are a trade association representing food and beverage establishments across New York City and State. We are the largest hospitality trade association in the State, and we have advocated on behalf of our members for over 80 years. Our members represent a large and widely regulated constituency in New York City, and even more critically, one of the industries hardest-hit by the ongoing Covid-19 pandemic.

We know how much the restaurant industry means to this city, its culture, and its economy, and we believe that the recovery of New York City itself depends on supporting the recovery of the struggling restaurant industry. With that goal in mind, we are so grateful to Council Member Velazquez and both of today's committees for giving us the opportunity to testify in favor of creating an accessible and permanent outdoor dining program for restaurants in New York City. Restaurants continue to struggle, and therefore rely upon outdoor dining to drive additional revenue and protect jobs. Outdoor dining has created a more vibrant streetscape and is broadly popular, and a permanent framework will be more than able to reach agreeable terms to satisfy residents and restaurants alike. Finally, when creating a permanent outdoor dining program, we urge City Council to prioritize ease and accessibility for restaurants across the five boroughs to participate.

The New York State Restaurant Association is entirely in favor of creating a permanent outdoor dining program for New York City. During the height of the pandemic, outdoor dining was a lifeline for businesses who were otherwise shut down. It allowed them to do more business and employ servers at a point when on-premise dining was otherwise off the table. Reliance on outdoor dining intensified due to the implementation of vaccine mandates – which made outdoor dining the only remaining sit-down option for unvaccinated locals and visitors – and the emergence of the omicron variant. Frustrating and daunting as it is to say, we still don't know what the future of this pandemic has in store, and the continued option of outdoor dining will be a critical tool for businesses to survive whatever it may be.

To put the need for a permanent, accessible outdoor dining program into clearer context, we have compiled some information about the dire state of the restaurant industry in New York. In partnership with the National Restaurant Association, we conducted a January 2022 survey that yielded the following results:

- 74% of operators say their sales volume in 2021 was lower than it was in 2019.
- 81% of operators say their restaurant's total costs (as a percent of sales) were higher in December 2021 than they were in December 2020.
- New York restaurants took a number of actions in recent weeks due to the increase in coronavirus cases, largely attributed to the Omicron variant:
 - 55% of operators reduced hours of operation on days that they stayed open

- 40% closed on days that they would normally be open
- 26% reduced seating capacity
- 7% changed to only offering off-premises for a period of time
- 86% say their restaurant is less profitable now than it was before the pandemic.

With that kind of hurt and damage still so widely felt by restaurant operators, it's critical to support our restaurants' recovery so we can support our city's recovery. Expanded opportunities for outdoor dining will be an important component of the restaurant industry's recovery, and an opportunity to embrace one of the few good things that came from our Covid-19 experience.

Under the Open Restaurants program, businesses across the five boroughs have been able to participate in public life, provide safe public spaces to gather, and brought new life to the storefront scene. Increased outdoor dining has made our streets more vibrant, and it is very broadly popular. We recognize that there is room for improved community relationships in some neighborhoods. We wholeheartedly support dedicating more DSNY resources towards trash pickup and street cleaning, which will be critical steps for reducing trash and pests, and we think it is mutually beneficial to both restaurants and residents to have cleaner streets. It is also worth noting that DSNY – which handles residential waste – did suffer significant budget cuts during the pandemic, and consequently reduced service. Meanwhile, restaurants and other businesses continue to be responsible for paying private haulers to pick up their commercial waste, so critics who link Open Restaurants to dirtier streets are likely finding fault in the wrong place. We also believe in reasonable noise parameters that are sustainable for restaurants and residents alike. These are attainable goals, and well within the framework of continued outdoor dining around the city.

Again, Open Restaurants has been immensely popular, not just with our members and their diners, but also in general. It's the number one thing people from outside the industry have cited to me as a pandemic-era change for the better.

Finally, I would like to address our top priority that a permanent outdoor dining program remain easy and accessible to use for restaurants across the five boroughs. Even within our membership, most Open Restaurants participants were new to outdoor dining. They hadn't had sidewalk cafes before, due to geographical, space, logistical, or cost constraints. This is a common story, and the temporary Open Restaurants program did a commendable job lowering the barriers to outdoor dining, especially in our outer boroughs. Preserving accessibility – in cost, logistics, and space – is our top priority for the future permanent outdoor dining program.

To us, that means the licensing fee to participate in the future permanent program should be reasonable, and perhaps based on a sliding scale or pay-what-you-can basis, especially for economically disadvantaged areas. It is worth noting that restaurateurs across the city have invested significant amounts of money into creating their Open Restaurants-compliant outdoor setups, and some portion of those costs were incurred because of frequently changing or miscommunicated parameters. In the very worst of the pandemic, when restaurants were at their most vulnerable, they invested in their neighborhoods and invested in creating community spaces to gather, and that past investment should be taken into consideration too.

Accessibility also means streamlined logistics, and being approved to utilize outdoor dining space

should be simple. The application, inspection, licensing, and all paperwork components of the permanent outdoor dining program should be as straightforward as possible. To the extent safe and feasible, we hope City Council would consider allowing some element of self-certification from the Open Restaurants program to continue, which would make it less burdensome for restaurants across the city to participate.

Finally, accessibility also means finding creative ways for restaurants who have space constraints to participate in such a valuable opportunity. For some restaurants, bus lanes, bike racks, extra-deep tree beds, and other pieces of the cityscape obstruct their access to space available for outdoor seating. City Council should consider how it can work with restaurants, both on a case-by-case basis and in the final framework, to find solutions to these challenges.

As much as we wish it were, the pandemic is not over yet and its damages will be even longer lasting. As we look ahead to the recovery of restaurants and New York City itself, we strongly believe that a permanent, accessible outdoor dining program will be a necessary factor for success. The New York State Restaurant Association is grateful to City Council and Mayor Adams for focusing their efforts on creating this kind of program and taking another step towards that goal today. The restaurant industry is still fighting for its life, and we thank City Council for keeping that in its consideration of this program. We look forward to our continued collaboration on the permanent outdoor dining program, and thank you for hearing us today.

Respectfully Submitted,

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