

Update: Alcohol and Outdoor Dining

This is an update for industry members who wish to have alcoholic beverage consumption in their sidewalk and/or roadway cafes under the new Dining Out NYC program.

What happened?

The New York State Liquor Authority has just released a binding industry guidance document called an advisory, addressing the important and sometimes confusing intersection between the state's alcoholic beverage laws and New York City's new outdoor dining program, Dining Out NYC.

What does it mean?

The most important thing to understand is that a sidewalk and/or roadway cafe license under New York City's new Dining Out NYC program *does not* automatically authorize your business to have alcoholic beverage consumption in your sidewalk and/or roadway cafe. That's because the New York State government, through the SLA, regulates alcoholic beverages; not the New York City government.

If yours is one of the thousands of businesses that submitted an application to NYC DOT before the August 3 deadline, SLA is requiring you to submit a *separate application* to SLA, called a Municipal Space Alteration Application, to authorize alcoholic beverage consumption in your sidewalk and/or roadway cafe. This application can be found on SLA's website, linked below, and it does require Community Board notification. Under SLA's new advisory, you cannot submit this alteration application until *after* you have received your sidewalk and/or roadway cafe license from DOT. And you cannot have alcoholic beverage consumption in your sidewalk and/or roadway cafe until *after* SLA approves this alteration application.

What are the key dates?

Under SLA's advisory, businesses have until January 1, 2025 to submit and obtain approval of the alteration application. We do not know if all businesses will be able to comply by that date, since it depends on two factors that are out of businesses' control: (1) how quickly DOT finishes issuing all of the sidewalk and roadway cafe licenses filed under the Dining Out NYC program by the August 3 deadline, and (2) how quickly SLA processes all of these newly-required alteration applications.

There have been assurances by the SLA full board that in December, the board will revisit the January 1 date, and will potentially push it back if there are still a significant number of businesses that filed with DOT by the August 3 deadline that have still not been issued their sidewalk and/or roadway cafe licenses.

Does this apply to my business?

All businesses that submitted sidewalk and/or roadway cafe applications to DOT under the new Dining Out NYC program must comply with SLA's advisory if they wish to have alcoholic beverage consumption in their sidewalk and/or roadway cafes.

In addition, any business that missed the August 3 deadline, but has since filed (or will soon file) with DOT under the new program must also comply with SLA's advisory. To be clear, any business that missed the August 3 deadline can still file with DOT, but in the meantime must immediately remove any existing sidewalk and/or roadway setup until DOT acts on the application.

Unfortunately, SLA's advisory has no exception for businesses that had sidewalk and/or roadway cafes under the pandemic-era Open Restaurants program. Nor is there any exception for businesses that had sidewalk cafes under the pre-pandemic NYC Department of Consumer Affairs program. If your business falls into either of these categories, you must still comply with SLA's advisory, even if you previously obtained approval from SLA to have alcoholic beverage consumption in these outdoor areas.

Brand new businesses that are just embarking on the DOT and SLA licensing processes might also be required to comply with SLA's advisory, but that is still unclear because brand new businesses are not expressly addressed in the advisory.

Will there be a gap between when my sidewalk and/or roadway cafe license is issued and when I can begin having alcoholic beverage consumption in those outdoor areas?

We hope not. Bars and restaurants that follow all the rules and apply on time have the right to expect to have alcoholic beverage consumption in their DOT-approved sidewalk and/or roadway cafes on Day 1. This is true for existing businesses that applied to DOT by the August 3 deadline; and it is equally true for brand new businesses that are gearing up to open now and in the future. This was true under the pandemic-era program, and it was true for decades under the pre-pandemic program.

We will continue to monitor this topic over the coming months. The success of New York City's outdoor dining program - which is supported by vast majorities of the New York City public and elected officials - is now in the hands of government agencies like DOT and SLA.

The SLA advisory, which contains several additional nuances, can be found [here](#).

