



Liquor Authority ([/web/20200606065625/https://sla.ny.gov/](https://web/20200606065625/https://sla.ny.gov/))

Renewal Payments Extended

(<https://web.archive.org/web/20200606065625/https://sla.ny.gov/news/sla-extends-renewal-payments>)

Free COVID-19 antibody testing for food delivery & restaurant workers

(<https://web.archive.org/web/20200606065625/https://sla.ny.gov/free-covid-19-antibody-testing-food-delivery-restaurant-workers>.)

New York State Liquor Authority Guidance on Outdoor Expansion of Licensed Premises in Response to COVID-19 Outbreak

Effective Thursday, June 4, 2020

Pursuant to the Governor's order, effective Thursday, June 4, 2020, all licensees in regions that have entered phase 2 of reopening and which have on-premises service privileges under the Alcoholic Beverage Control Law (ABC Law) may, subject to the guidance below, resume outdoor, on-premises service of alcoholic beverages and/or food.

To aid in prevention of the spread of the coronavirus and assist businesses impacted by the current state of emergency, the Governor has ordered the Chairman of the State Liquor Authority (SLA) to promulgate guidance on a streamlined process for expansion of licensed premises for service of alcoholic beverages. This SLA Guidance shall

continue until July 3, 2020 but may be extended or reduced depending upon the circumstances.

The State Liquor Authority offers the following Guidance:

Outdoor Consumption in Phase 2:

- Any consumption of food and/or beverage must happen in outdoor, open-air areas, without a fixed roof (besides a temporary or seasonal awning or cover).
- Food and/or beverages can only be consumed while seated at a table, bar, counter, or similar contrivance.
- All tables must be 6 feet apart; any seat at a bar, counter, or similar contrivance must be 6 feet apart.
- All staff of the licensed business must wear face masks at all times.
- All customers must wear face masks at any time they are not seated.
- Any consumption shall be subject to all other relevant executive orders, guidance promulgated by the Department of Health, and/or any other relevant agency guidance.
- It shall be part of the Licensee's supervisory responsibilities under the Alcoholic Beverage Control Laws and Rules of the Authority to comply with this SLA Guidance and the Department of Health's Interim Guidance for Outdoor Service; if unable to comply, it is the licensee's obligation to discontinue outdoor service.

Outdoor Expansion of Premises in Phase 2:

- Section 99-d of the ABC Law, under normal conditions, governs the process for substantial alterations of a licensed premises. Pursuant to this Guidance, however,

a licensee may, for the duration that this Guidance remains in effect, use any contiguous outdoor, open-air part of its existing premises for which it has control by deed, lease, management agreement, or other agreement of control (e.g., a municipal sidewalk cafe permit). Provided however that if a licensee's existing license operates with stipulations restricting the use of outdoor areas, through a municipality or other entity, such licensee must submit a letter from such stipulating counter-party approving such additional outdoor use of premises.

- Any licensee that expands its premises pursuant to the immediately foregoing paragraph shall, within 5 business days of doing, so submit an updated diagram to the SLA at temporaryalterations@sla.ny.gov (<mailto:temporaryalterations@sla.ny.gov>) - please include your license serial number in the subject line. Failure to do so shall subject a licensee to disciplinary charges for illegal extension of premises.
- Licensees are permitted to move any currently licensed point of sale as long as they note such movement on the diagram they submit pursuant to this Guidance; adding an extra point of sale (more than currently licensed) is not permitted without having an approved application to the SLA for an additional bar license.
- Should any municipality elect to make available to licensees any municipally owned lands (e.g. sidewalks, streets, etc.) which are beside, but not immediately adjacent to, the licensed premises for service of food and/or beverages (a "Municipal Extension"), and should such municipality want or expect the SLA to have jurisdiction over a licensee's operations over such Municipal Extension, such municipality must submit to the SLA a plan for municipal outdoor dining areas on the following [form](#)

(<https://web.archive.org/web/20200606065625/https://sla.ny.gov/system/application-to-temporarily-extend-premises.pdf>) and deliver to the SLA the written acceptance of responsibility for such Municipal Extension from each implicated licensee by also including the following form (<https://web.archive.org/web/20200606065625/https://sla.ny.gov/system/certification-for-temporary-extension.pdf>). Service that occurs in a municipal dining area for which a municipality has not submitted a form and licensee written acceptance shall be outside the jurisdiction of the SLA.

- Licensees are not permitted to move points of sale onto municipal property, even with an approved Municipal Extension, under any circumstances.

A reminder: outside of this Guidance, the restrictions put in place by Executive Order 202.3 (as continued by subsequent executive orders) remain in effect; any licensed business found to be operating in violation of the Governor's orders restricting on-premises service of alcoholic beverages, including the SLA Guidance with respect to take out and delivery service, shall face a monetary penalty (retail maximum of \$10,000/manufacturer maximum of \$100,000), and/or suspension, cancellation, or revocation of its license.

For additional detailed information, please visit the New York State Department of Health's Interim Guidance for Outdoor Service

(<https://web.archive.org/web/20200606065625/https://www.governor.ny.gov>)

Q & A Regarding Outdoor Dining

OUTDOOR SERVICE BY LICENSEES

Q: I understand that food and/or drink cannot be consumed under a fixed roof, and that I can only serve in open-air areas or under an awning or other temporary structure. What constitutes a fixed roof for this purpose?

A: A fixed roof for these purposes is any overhead structure covering an outdoor seating area that would not reasonably be viewed as temporary.

Q: Can food and/drink be consumed while standing?

A: No, all consumption must be while seated at tables, bars, counters, or similar contrivances.

Q: Are these outdoor guidelines limited to restaurants?

A: No, all licensed on-premises establishments (e.g. restaurants, bars, taverns, clubs, cafes, manufacturers with on-premises privileges, etc.) in Phase 2 regions may, subject to the guidance above, resume outdoor, on-premises service of alcoholic beverages and/or food.

Q: Can food and/or drink be consumed on a golf course?

A: Only as provided in the Guidance, e.g., outdoors, by patrons seated at tables, 6 feet apart, etc.

Q: Can a patron consume an alcoholic beverage on premises under this guidance without purchasing food?

A: Yes, as your on-premises service privileges require that you make food available, but do not require that food be purchased.

Q: Can I conduct tastings?

A: A tasting is an on-premises service that must comply with all the rules in this Guidance and any other relevant guidance on food/drink service.

Q: Can I have live entertainment in my outdoor dining area?

A: No, concerts and other similar forms of live entertainment are not yet permitted. Recorded music may be used in accordance with your SLA license conditions and any municipal ordinance. Where in conflict, the municipal ordinance shall govern.

Q: Where can I find DOH and other additional guidelines on reopening?

The DOH guidance on outdoor dining can be found [here](https://web.archive.org/web/20200606065625/https://www.governor.ny.gov/) (<https://web.archive.org/web/20200606065625/https://www.governor.ny.gov/>). Other relevant documents can be found, among other places, on the Governor's New York Forward page [here](https://web.archive.org/web/20200606065625/https://forward.ny.gov/) (<https://web.archive.org/web/20200606065625/https://forward.ny.gov/>), and Empire State Development's COVID resource page found [here](https://web.archive.org/web/20200606065625/https://esd.ny.gov/esd-covid-19-related-resources) (<https://web.archive.org/web/20200606065625/https://esd.ny.gov/esd-covid-19-related-resources>).

LICENSEE EXPANSION OF PREMISES

Q: Should I file an alteration if I plan to use an expanded area permitted under this Guidance on more than a temporary basis?

A: Yes, you should file an alteration. You may still use that area in accordance with this guideline while the alteration application is pending by sending a diagram of the expanded area within 5 days.

Q: If I am expanding with authorization of the municipality onto municipal property that is immediately adjacent to my premises (a sidewalk cafe), do I need to do anything?

A: Yes, you must within 5 days of beginning use of such area submit a diagram to the SLA incorporating this area into your licensed premises.

Q: If I am expanding on to municipal property that is beside, but not immediately adjacent to my premises, do I need to do anything?

A: Yes, you must contact your municipality regarding its filing of a Municipal Extension form

(<https://web.archive.org/web/20200606065625/https://sla.ny.gov/system/files/application-to-temporarily-extend-premises.pdf>) before any expansion is permitted by the SLA. You should also provide your municipality with the completed certification form (<https://web.archive.org/web/20200606065625/https://sla.ny.gov/system/files/certification-for-temporary-extension.pdf>) required for municipal applications.

MUNICIPAL EXTENSIONS

Q: As a municipality, what must we submit to the SLA to create outdoor dining areas (Municipal Extensions) for alcoholic beverage consumption on municipal property (e.g., streets and sidewalks) which are beside, but not immediately adjacent to, an SLA licensed establishment?

A: The SLA wants this to be as streamlined as possible for businesses, municipalities, and the SLA. We want businesses to be able to extend their footprint for food and beverage service quickly and safely and we want to work cooperatively with municipalities to address any related health and safety issues. To that end, we've created a simple application process to create a partnership with municipalities creating outdoor dining areas on municipal property which requires only three items: (1) a supervision and control plan from the municipality, (2) a simple block plot diagram, and (3) a certification from the licensed businesses intending to operate on municipal property.

Review of Municipal Expansion forms will be prioritized and reviewed expeditiously.

Q: As a municipality, can you tell us what you are looking for in the supervision and control plan we will be submitting to you?

A: Some best practices include: a description of how patron safety will be ensured and noise will be controlled (for example, through regular directed patrols by police and/or other municipal agencies and the erection of barriers between dining areas and vehicular traffic); proper delineation of areas provided for each licensee; consideration of hours permitted for outdoor operation; consideration of how and whether outdoor music will be permitted, etc.

Q: As a municipality, can we under our municipal extension plan make public lands available to a licensed on-premises business for alcoholic beverage service that are not in front of the licensed premises?

A: No, any area of expansion for alcoholic beverage service must be in front, behind, or to the side of the licensed premises and within its property boundaries as extended straight out and perpendicular to the street or sidewalk fronting the building. A municipality may provide authorization to a licensee to use the public land immediately adjacent to the licensed premises (e.g. through a sidewalk cafe permit) without need to include such land in a municipal extension plan. However, any public land that a municipality authorizes a licensee to use that is not immediately adjacent (i.e., separated by a pedestrian thoroughfare), shall only be permitted by the SLA pursuant to a municipal extension plan. Please note the *only* area which may intervene between the public space being made available and the property line of the licensed premises is a pedestrian thoroughfare.

Q: As a municipality, what should the diagrams for our Municipal Extension area(s) look like?

A: A simple block plot diagram identifying the licensed establishments and the area(s) to which alcoholic beverage service would be extended for each licensed establishment will suffice.

Q: As a municipality, if we want to add more licensed businesses to our approved or pending Municipal Extension plan, what should we do?

A: You only need to submit the additional certification forms for those businesses, referencing the date the Municipal Extension plan was first submitted.

Q: My municipality has granted me a sidewalk/street permit in an area which is beside but not immediately adjacent to my licensed premises, do I need to do anything else if I want to serve alcoholic beverages in this area?

A: Your municipality must submit a Municipal Extension form (<https://web.archive.org/web/20200606065625/https://sla.ny.gov/system/files/application-to-temporarily-extend-premises.pdf>) for approval to the SLA, which should include the space it has provided to you (and any other licensee) along with your completed certification form (<https://web.archive.org/web/20200606065625/https://sla.ny.gov/system/files/certification-for-temporary-extension.pdf>).

Liquor Authority

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