



# Digging In to Dining Out: Ways to Fix New York City's Outdoor Dining Program

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## INTRODUCTION

When the temporary Open Restaurants program allowed restaurants to operate outdoor, roadside cafes, thousands of businesses seized the opportunity. The assortment of streeteries brought a new layer of individuality to our streets and fostered a renewed sense of community among residents. Unfortunately, for all the benefits that the temporary outdoor dining program brought to New York City, the new, permanent program faces a perilous future. A convergence of opaque bureaucracy, car-centric perspectives in the City Council, and a small but vocal opposition has caused significant problems within Dining Out NYC, our ambitious but imperfect permanent program.

This has severely restricted the ability of most businesses to participate in the official program.

Over the past five months, Open Plans conducted door-to-door outreach to dozens of restaurants and distributed a comprehensive survey — both to those who applied to the new program and those who did not — to determine and document the reasons restaurants have decided to participate in the permanent program or not.

In this document, we summarize our findings and present recommendations to make the Dining Out NYC program work for businesses, patrons, and the city.



## FINDINGS

Dining Out NYC begins on April 1, 2025 with a greatly diminished roster of participants, sparking concern about City mismanagement and inequity.

- One week from the program’s start, less than 2% of all Dining Out NYC applicants (47 out of 4,000) had received an official license. Of these 47 licenses, just 21 are for roadway cafes.<sup>1</sup>
- As of March 26, 2025, 547 roadway dining applicants had been granted “conditional approval” from the Department of Transportation (DOT) to begin operation on April 1 — a far cry from the 6,000 to 8,000 outdoor cafes that enlivened our streets during the program’s peak.<sup>2</sup>
- As of March 26, 2025, the vast majority of officially and conditionally approved Dining Out NYC roadway cafes are located in Manhattan or Brooklyn — with 59% in Manhattan and 34% in Brooklyn.<sup>3</sup> This means that just 6% are located in Queens, 1% in the Bronx, and none in Staten Island. During the pandemic-era program, participation was spread much more equally, with neighborhoods around the city having access to this program.<sup>4</sup>
- Over the course of the temporary program, an estimated 12,500 restaurants took advantage of outdoor dining options, leading to 11,720 new jobs and \$373 million in total annual wages. With the end of the temporary program, the loss of jobs, wages, and tax revenue to the city has a serious negative impact on our economic recovery.<sup>5</sup>

During the course of our research, respondents identified several key challenges:

- The seasonal program and accompanying costs associated with new structures, labor to put them up and take them down, and storage in the off season
- Total expenses incurred from fees, including listed and hidden fees
- Unclear guidance on New York State Liquor Authority (SLA) regulations

## Program participation is down

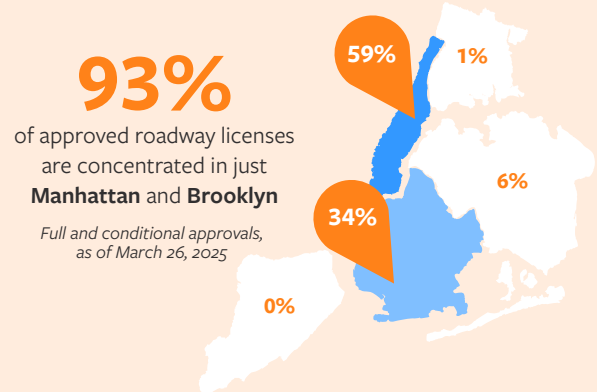


From its height of 6,000 to 8,000 outdoor cafes during the pandemic

**only 21**  
roadway applications are fully approved  
**547**  
are conditionally approved

*As of March 26, 2025*

## There is significant geographic inequity



With a flawed program,  
we’re missing out on

**\$373M** 💰 in wages  
**12,500** 🍴 streeteries  
**11,720** 💼 jobs

*As a result of the temporary program*

## Respondents identified several key challenges



Cost for structures



Set-up and  
teardown costs



Fees



Storage in off season



Alcohol regulations

Open Plans surveyed and interviewed a variety of businesses: small and large, in every borough, bars, restaurants and cafes. Respondents included businesses that were applying to Dining Out NYC and ones that chose not to. Our research revealed a number of common themes:



High cost was the top reason that applicants chose not to apply for the permanent program, followed by arbitrary enforcement.



Accessibility remains a top concern, and a lack of an al fresco dining option excludes patrons who cannot dine indoors (those with medical conditions and health concerns, for example).



Storage was an issue for nearly all of those not applying this cycle. None of the respondents who have applied for roadway dining had finalized plans for storage for the off-season at the time of their response.

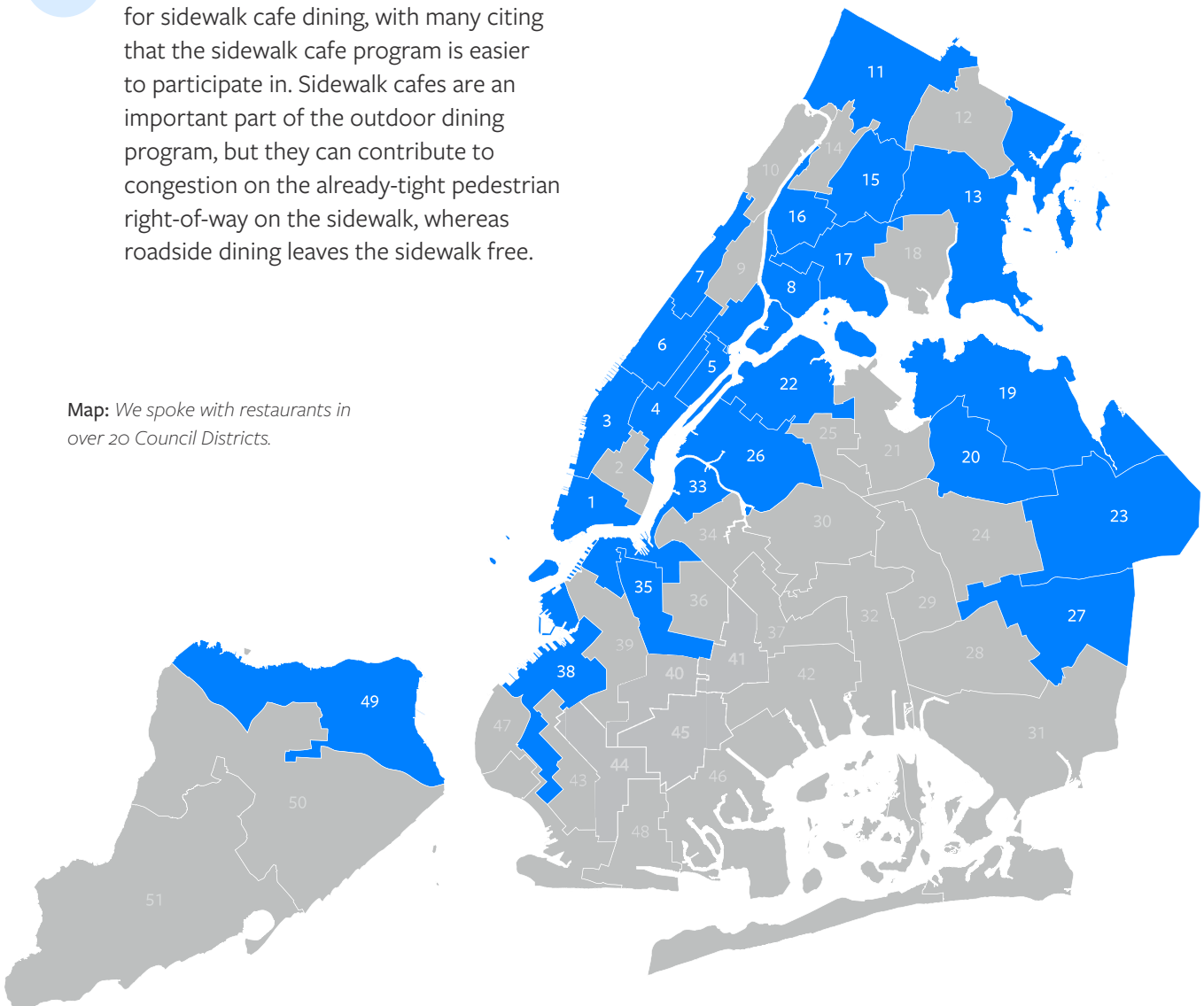


Multiple respondents who did not apply this cycle told us they had to fire staff after closing down their outdoor dining operations and experienced a loss of sales.



Most respondents who are not applying for curbside dining this cycle have opted for sidewalk cafe dining, with many citing that the sidewalk cafe program is easier to participate in. Sidewalk cafes are an important part of the outdoor dining program, but they can contribute to congestion on the already-tight pedestrian right-of-way on the sidewalk, whereas roadside dining leaves the sidewalk free.

Map: We spoke with restaurants in over 20 Council Districts.



## QUOTES & TESTIMONIALS

*“Outdoor dining gives NYC what they need from vibes [to] energy.”*

- From an applicant

*“People are bummed about not having structures anymore... People felt safe in them. People are faulting us for it since we are following the rules, [but the] rules feel arbitrary.”*

- From an applicant

*“The DOT charged me \$500 because my chairs stayed outside on the last day. I was waiting for the truck to come get the chairs, but the people wanted to charge me before I finished. I just paid the \$500 because I don’t have time to fight.”*

- From a non-applicant

*“[The process] is very long and cumbersome, having to figure out ordering materials and storing them someplace before we get approval is a nightmare. We have no basement...the lead time for the barriers is 3-4 weeks. Once they arrive I have no place to store them, the program starts 4/1 but there’s no way we’ll have all the materials to build in time for that since we were approved just the other day.”*

- From an applicant

*“Give me a way to ask for more space. Right now we fit 22 people, and the outside space only lets me fit 10 people. That’s too little for \$500! No one else next to me is doing anything outside.”*

- From a non-applicant

## RECOMMENDATIONS

In order to create a more equitable and effective program, we recommend the following initial revisions to the Dining Out NYC program:

### REFORMS REQUIRING LEGISLATIVE ACTION

- 1 Create a year-round option
- 2 Allow restaurants with smaller store frontage an option to utilize adjacent frontage
- 3 Allow for local feedback but remove Community Board and Council Member vetoes

### REFORMS REQUIRING AGENCY ACTION

- 1 Provide more transparency about fees
- 2 Improve the application process
- 3 Reform the process for obtaining a curbside liquor license
- 4 Eliminate the liquor liability requirement
- 5 Allow more flexibility in design requirements

### Reforms Requiring Legislative Action

#### 1. Create a year-round option

Businesses, especially small ones, do not have the time or money to build, dismantle, and store outdoor dining materials every year as the seasonal program requires. Additionally, pausing curbside dining from December to March forces businesses to miss out on lucrative warm days in winter and early spring that would draw customers to their outdoor seating and help offset the cost of participating in the program; a year-round option would likely increase participation, especially for smaller businesses running on thin margins. It would also create more accessibility throughout the year for diners with health concerns. The City Council could and should pass a bill to amend the current law and allow for restaurants to participate year-round. Alternatively, the State Legislature could address this issue. While we believe the

City Council should take action, this issue is so important to the success of the program that we support State legislation if the City Council refuses to act.

#### 2. Allow restaurants with smaller store frontage to acquire more dining frontage

Under the current program, restaurants can only use the roadway directly in front of their business, which for a small storefront is very limited. It does not make logistical sense for small restaurants to go through the entire outdoor dining application process to then only be able to serve one or two tables. During the temporary program, many small cafes and restaurants made informal agreements with neighboring businesses that allowed them to extend their seating to the curb in front of these adjacent storefronts, expanding their available space to serve outdoors. The City Council should bring back this option and create a simple, formal process for this to happen.

### 3. Allow for local feedback but remove Community Board and Council Member vetoes

Local feedback is important. However, veto power is not feedback; it is an override. The city should be supporting small businesses to thrive in communities, not creating more roadblocks for them. It's arbitrary and detrimental to allow the local Council Member to shut down any outdoor dining setup they don't like, and a misplaced use of the Council's power. Similarly, while local Community Boards don't have official veto power, many have used their power over liquor licenses to create onerous hoops for restaurants to jump through. The City and State should explore better mechanisms for feedback without hamstringing the entire program.

## Reforms Requiring Agency Action

### 1. Provide more transparency about fees

While most restaurants are aware of the revocable consent and license fees, many restaurants report that they aren't aware of various "hidden" fees until they get far along in the process (like a required \$1,000 newspaper placement fee, or liquor liability insurance, further discussed below). Those fees add up over time to make the program cost-prohibitive. DOT should clearly lay out all the fees in advance so that restaurants can budget. Any fees that aren't required by law should be lowered if possible.

### 2. Improve the application process

Many restaurants are owned by New Yorkers who do not speak English as a first language. Although the application is available in many languages, an in-person application option would be helpful for many restaurant owners. Additionally, applicants are not able to save their progress on the online application once they start working on it - this is a simple fix that would make the process much easier. Finally, the application currently requires architectural drawings that are difficult for many restaurants to obtain. This requirement should be simplified to make it easier for small restaurants to comply. Overall, the city must improve the application timeline so in the future restaurants aren't left in limbo with no decision on their application mere days before the program begins.



Photo: A DOT representative showcases the new outdoor dining design prototype for Sunday to Sunday in the Lower East Side

### 3. Reform the process for obtaining a curbside liquor license

The permanent program requires that restaurants obtain an additional liquor license for sidewalk or roadway dining, even if they already have one for their indoor dining. There is a lack of clarity around the process for obtaining this additional license; a restaurant cannot apply for a liquor license until they have been approved for Dining Out NYC, but it's unclear whether conditional approval is enough. This delay could mean many restaurants cannot serve alcohol for months, losing out on critical revenue. The SLA should issue new guidance to clarify this process and help restaurants obtain licenses promptly to make the most use of the outdoor dining season.



Photo: With a Dining Out NYC program that works for all New Yorkers, we can inject even more vibrancy into our streets.

#### 4. Eliminate the liquor liability requirement

Currently, DOT requires that restaurants obtain expensive liquor liability insurance — separate from insurance they may already have for indoor alcohol sales and the general insurance they must have to operate curbside dining — to be able to serve alcohol at their roadway cafes. This requirement is especially burdensome for small restaurants and bars and should be eliminated.

#### 5. Allow more flexibility in design requirements

In the pandemic-era program, restaurants let their creativity shine through their structure's designs. While regulations are important to ensure safety and sanitation, strict restrictions on materials and construction may hinder owners' ability to express personality and create setups that excite and delight diners. Restaurants have expressed a desire to be creative about coverings and internal structure materials, for example. DOT should continue to work and iterate with design professionals and restaurant owners to ensure that standards result in structures that are creative, beautiful, cost-effective, and safe.



## ENDNOTES

- 1 Matthew Haag, “4,000 Applications for Outdoor Dining, 39 Licenses Issued.”, The New York Times, February 14, 2025, <https://www.nytimes.com/2025/02/14/nyregion/nyc-outdoor-dining-sheds.html>; New York City Department of Transportation, “Outdoor Dining Application Portal”, Accessed March 26, 2025, <https://diningout.nyc.gov/application/>.
- 2 New York City Department of Transportation, “Outdoor Dining Conditional Approvals for Roadway Cafes as of Tuesday March 25th, 2025”, March 25, 2025, <https://www.diningoutnyc.info/sites/default/files/2025-03/outdoor-dining-conditional-approvals-roadway-cafes.pdf>; Diana Ionescu, “NYC Losing Many Outdoor Dining Areas Due to Expensive New Regulations”, Planetizen, November 5, 2024, <https://www.planetizen.com/news/2024/11/132455-nyc-losing-many-outdoor-dining-areas-due-expensive-new-regulations>.
- 3 New York City Department of Transportation, “Outdoor Dining Application Portal”, Accessed March 26, 2025, <https://diningout.nyc.gov/application/>; New York City Department of Transportation, “Outdoor Dining Conditional Approvals for Roadway Cafes as of Tuesday March 25th, 2025”, March 25, 2025, <https://www.diningoutnyc.info/sites/default/files/2025-03/outdoor-dining-conditional-approvals-roadway-cafes.pdf>.
- 4 Michelle Bocanegra, “NYC outdoor dining program serves as a boon for outer boroughs, communities of color: Report”, Gothamist, January 18, 2023, <https://gothamist.com/news/nyc-outdoor-dining-program-serves-as-a-boon-for-outer-boroughs-communities-of-color-report>.
- 5 New York City Comptroller, “Comptroller Lander Reveals Only 40 out of 3,500 Restaurants Have Received Outdoor Dining Permits Ahead of the Program’s April 1 Start”, February 13, 2025 <https://comptroller.nyc.gov/newsroom/comptroller-lander-reveals-only-40-out-of-3500-restaurants-have-received-outdoor-dining-permits-ahead-of-the-programs-april-1-start/>.
- 6 New York State Liquor Authority, “Advisory ADVISORY #2024-1: Addition of Outdoor Space to Licensed Premises and Newly Enacted ABCL 111-a”, August 16, 2024, [https://sla.ny.gov/system/files/documents/2024/08/advisory\\_2024-1\\_-\\_addition\\_of\\_outdoor\\_space\\_to\\_licensed\\_premises.pdf](https://sla.ny.gov/system/files/documents/2024/08/advisory_2024-1_-_addition_of_outdoor_space_to_licensed_premises.pdf).

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## ABOUT OPEN PLANS

Open Plans’ mission is to promote a people-first street culture that prioritizes community, active mobility, and connection.

We use grassroots advocacy and policy changes to help transform how people experience New York City’s public spaces.