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COMMUNITY BOARD NO. 2, MANHATTAN

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REOPENING WORKING GROUP

March 2021

The Reopening Working Group held a meeting on Wednesday, March 31 at 6:30PM via Zoom.

Committee Members Present: Valerie De La Rosa (Chair), Bob Ely (SLA Co-Chair), Daniel Miller (First Vice Chair), Donna Raftery (SLA Co-Chair), and Joseph Gallagher (Quality of Life Chair)

Other Board Members Present: Jeannine Kiely (Incoming CB2 Chair) Carter Booth (Outgoing CB2 Chair), William Benesh, David Gruber, Michael Levine, Rocio Sanz, and Eugene Yoo

CB2 Staff Present: Bob Gormley (District Manager)

There were 50 people in attendance.

Minutes

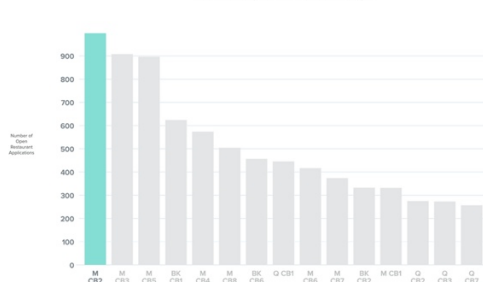
The meeting was called to order at 6:35PM by Valerie De La Rosa. The agenda for the meeting is as follows:

- I. *Brief Review of NYC OpenData on Open Restaurants Inspections
- II. *Discussion of permanent outdoor dining initiatives

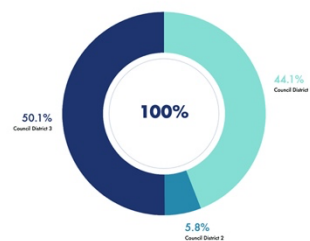
Valerie presented a short deck on Open Restaurants Inspections in CB2. A selection of graphs from that presentation are below:

Open Restaurants By Self-Certified Applications

Top 15 Community Boards Across All Five Boroughs

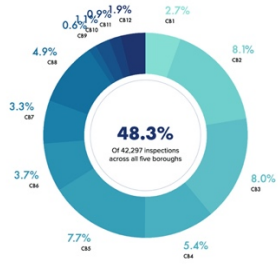


CB2 Open Restaurant Applications by Council District

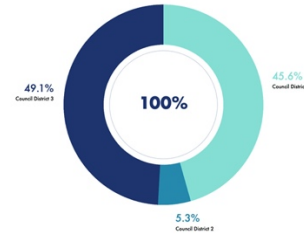


Open Restaurants Inspections - Manhattan

Percentage of Inspections across Manhattan Community Boards Against the Total Inspections in All Five Boroughs

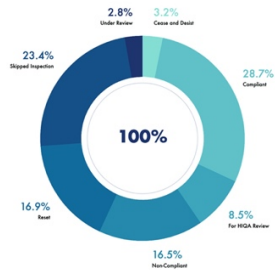


CB2 Open Restaurant Inspections by Council District



Open Restaurants Inspections By Type in CB2

Type as Defined by DOT in the Is Roadway Compliant Column in the Dataset



Key Items to Note about the Open Restaurants Inspections Data for CB2

- Inspections were only conducted on roadbed structures. None of the sidewalk structures were inspected as part of the data collected for Open Restaurants Inspections.
- New Open Restaurants permits trigger initial inspection about a week after the permit is issued.
- Inspections were given the following rating:
 - Compliant
 - Under Review
 - For HIQA Review (HIQA is the Highway Inspections & Quality Assurance which is an arm of DOT that oversees Street Construction Inspections and Enforcement).
 - Skipped Inspection (means the establishment did not have a roadbed structure)
 - Non-Compliant
 - Cease and Desist
 - Reset (there was an overall reset that happened across the board at the end of December that essentially “cleared” the queue)

The floor then opened up to the public to voice their concerns regarding the permanent Open Restaurants program. Discussion was divided into two sections: roadbed and sidewalk.

Once the committee moved into business session, it was decided that a letter would be written to reiterate the concerns about permanent outdoor dining voiced during this meeting and to reiterate the board’s position in the November 2020 resolution on the Open Restaurants program as it moves towards the permanent program.

The concerns from the public, the RWG Committee, and other CB2 Board Members were synthesized and summarized on the following pages.

PERMANENT OPEN RESTAURANTS PROGRAM CONCERNS

Community Board 2 has the highest density of outdoor dining type permits both pre-, current- and presumably post-Covid. CB2 has the highest number of participants in the Open Restaurants program with 998 Open Restaurants permits¹, nearly 9% of all Open Restaurants permits in the 59 community boards across the city. Fifty percent (50%) of the Open Restaurants in CB2 are in Council District 3. Pre-Covid, CB2 had the highest number of sidewalk cafés (184)² which is 17% of all sidewalk cafés in the city.

As we move forward and consider permanent outdoor dining programs, we hope that there is consideration of the broad base uses and users of the public space, public safety and structural safety issues, access for city services including trash collection and street cleaning as well as consideration for street repairs and construction.

Many of the restaurants participating in the temporary program in CB2 are located in exclusively residentially zoned districts, and we thank you for your time in mediating many ongoing issues in those areas. We fully expect a return of residents, tourists, office workers, and commuters to our mixed-use community district and a permanent Open Restaurants program, an important part of welcoming visitors back, should take into consideration the needs of this area.

No structures erected during the pandemic on the sidewalk or on the roadbed as part of the Temporary Open Restaurants Program should be permitted to remain as part of the Permanent Open Restaurants Program.³ Any permanent enclosed outdoor dining structures of any type should require a comprehensive review as has been provided for previously and follow a comprehensive set of appropriate guidelines, especially if those structures are to be located in a historical district.

As a practical matter, we strongly advocate for a broad transition period to allow initial review of all applications for any permanent program, including community input. This would allow adequate time to review all initial applications for any permanent programs that did not exist pre-pandemic. After this initial period has occurred, a streamlined process which allows for community input should be considered.

Our concerns and discussion points for the Permanent Open Restaurants Program are divided into two sections (sidewalk and roadbed) as we wait to review any forthcoming zoning text amendments or proposed rules for future outdoor dining programs. These concerns and discussion points are based on both the CB2 resolution passed November 2020⁴ and the Reopening Working Group meeting on March 31, 2021.

SIDEWALK CONSIDERATIONS

1. No sidewalk cafés (unenclosed and/or enclosed) in residential zones.
2. Clear service aisles included within the sidewalk café space which do not interfere with eight-foot (8') clear path requirements of eight feet (8') or fifty percent (50%) of the sidewalk (whichever is greater).
3. Enclosed structures constructed during temporary program should not be allowed to remain past this winter or earlier as pre-existing, non-conforming uses.

¹ [NYC OpenData Open Restaurants Applications](#) as of March 28, 2021.

² [NYC OpenData Sidewalk Café Licenses and Applications](#) as of April 16, 2021. New applications for the Sidewalk Café Program were suspended in June 2020 as part of the Temporary Open Restaurants Program, which is set to expire on September 30, 2021.

³ This is consistent with the New York Hospitality Alliance's expectations for the permanent program outlined in a [FAQ issued April 14, 2021](#).

⁴ [CB2 Reopening Working Group Resolution, November 2020](#).

4. Establish a set transition period from the temporary Open Restaurants program to the permanent Open Restaurants program that allows for overlap to accommodate proper review while businesses are able to operate. The transition period should be clearly communicated to operators and include a transition period from the self-certification process (“Temporary Open Restaurants Program”) to a clear reapplication process (“Permanent Open Restaurants Program”) for permanent sidewalk cafés with community input and review.
5. Require special applications/design requirements for sidewalk cafés in historic districts if they include any permanent sidewalk fixtures of any type including barriers or temporary fixed roofs, awnings, umbrellas, tents or similar.
6. A full diagram and plan certified by an architect or other appropriate licensed professional, description of materials used, number of tables and seats, service aisles, obstructions, etc. should be presented at the time of application for a permanent program with an opportunity for Community Board review and input within a reasonable amount of time prior to approval (an initial 90 day pre-notification or greater should be afforded to resolve ongoing issues).
7. Operators with sidewalk café permits existing prior to the Covid Temporary Open Restaurants Program should be exempt from community review, provided there are no changes to the permitted number of tables and chairs, service aisles or other enclosures, and the approved diagrams remain unchanged.
8. Sidewalks that are eligible for sidewalk cafés should continue to be at least twelve-feet (12’) wide, to allow adequate pedestrian movement.
9. Continue to prohibit host stands or service areas in roadbed or sidewalk dining, to allow adequate pedestrian movement.
10. No menu boards on the sidewalk that extend into the pedestrian walkway. Current regulations should be maintained.
11. Sidewalk cafés should have adequate clearance requirements from any residential entryway.
12. Musical instruments or sound reproduction devices or any prerecorded music or other music types shall not be operated or used within sidewalk dining for any purpose. No interior speakers facing to outside to sidewalk areas.
13. Televisions shall not be operated or used within sidewalk dining for any purpose. No interior televisions facing to the outside.

ROADBED CONSIDERATIONS

1. Roadbed dining prohibited in residential zones.
2. Roadbed dining is seasonal (April to October).
3. Streets eligible for roadbed dining must be at least thirty-one feet (31’) that includes a fifteen-foot (15’) travel/emergency lane and eight feet (8’) on each side for parking or roadbed dining.
4. No enclosed structures of any type for roadbed dining including fixed roof structures. Enclosed structures constructed during the Covid era should not be allowed to remain as pre-existing non-conforming uses.

5. Roadbed dining areas should not be allowed if separated by a bike lane or if staff or patrons must cross over a bike lane to access seating or to service customers.
6. Roadbed dining is to be created of modular construction that is removable to facilitate seasonal use, removal over winter and removal for any required utility or roadwork and if necessary, for DSNY snowplow clearing.
7. No extension of roadbed dining beyond the establishment's storefront.
8. Roadbed dining is for seated table service only. Roadbed dining should include service aisles. No service should occur from the sidewalk or outside the designated roadbed dining area.
9. If there is both sidewalk and roadbed dining, a strict eight-foot (8') clearance or fifty percent (50%) free of all obstructions between both, to allow adequate pedestrian movement.
10. Special applications/design requirements for roadbed dining in historic districts, especially if they include any fixed fixtures of any type including barriers or temporary fixed roofs. Umbrellas, tents or similar awnings should be of preapproved types.
11. If roadbed seating is allowed to be separated by a bike lane, there should be one point of access, a protective divider between bikers and diners, an interior service lane for wait staff and the access point to the seating areas should be marked with a clearly visible crosswalk in the bike lane. For roadbed seating over twenty feet (20') there should be a point of ingress/egress for every fifteen feet (15') or a determined fixed distance for every structure over fifteen feet (15').
12. Require a minimum distance of six feet (6') between two roadbed dining areas for access to street and buildings.
13. Continue to prohibit host stands or service areas in roadbed or sidewalk dining, to allow adequate pedestrian movement.
14. Require a six-foot (6') opening clear through to the street for all residential entrances. Roadbed dining should not block access to residential entrances from the street.
15. Musical instruments or sound reproduction devices or any prerecorded music or other music types shall not be operated or used within roadbed dining for any purpose. No interior speakers facing to outside to roadbed areas.
16. Televisions shall not be operated or used within roadbed dining for any purpose. No interior televisions facing to the outside.
17. No outdoor dining in, in front of or adjacent to a public park space (i.e. Father Fagan Square).
18. Roadbed dining hours should end at 10pm on weekdays and 11pm on weekends.
19. Require that a full diagram and plan (certified by an architect or other appropriate licensed professional), description of materials used, number of tables and seats, service aisles, obstructions, etc. be presented at the time of application for a permanent program with an opportunity for Community Board review and input within a reasonable amount of time prior to approval (an initial 90 day pre-notification or greater should be afforded to resolve ongoing issues).