



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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MCB4 REAR YARD/ROOFTOP POLICY FOR LIQUOR LICENSES

Overview

Rear Yard/Rooftop use is an amenity to many restaurant owners and their patrons, but can be a nuisance to the quality of life of surrounding residents. Such outdoor use tends to be disruptive for residents with apartments within earshot because of the late hours of operation and the high noise levels that have the capacity to travel into the homes. This policy recognizes the need for a balance between these sometimes competing interests by laying ground rules for the consideration of these types of uses. It is important to note that while sidewalk cafes go through a separate approval process involving the Department of Consumer Affairs, there is no such similar oversight for other outdoor use.

Based on experience, where outdoor uses are allowed, the best mix of businesses with outdoor use and adjacent and nearby residents includes control of hours and operation; responsible business owners and managers are key to maintaining a beneficial and respectful environment.

However, the Board has found that rear yard use comprised of predominantly bar or club establishments is inevitably disruptive to the surrounding residents because of higher noise levels and ambient smoke. Therefore, the Board will rarely recommend approval of rear yard use by bars or clubs. Similarly, the Board will rarely recommend approval of rooftop uses in residential areas. Permitted roof tops must be a minimum of ten stories above abutting residences.

In considering an application, the Board will give the concerns of surrounding residents' strong consideration in its determination to recommend or not recommend such use, as well as the configuration of the outdoor space.

Site Review and Considerations

At the time of the application, the applicant/representative will have available a drawing (done to scale) showing the back yard – its size, neighboring buildings, and placement of tables and chairs. Applicants are urged to consult with professional advisors to confirm that their plans conform to all applicable laws and regulations including zoning, building, and fire codes. These drawings must also delineate the placement of all fire escapes, fire escape ladders, and doors to adjoining places of refuge (including the door's swing).

In addition, the applicant will be required to arrange for the Business Licenses and Permits Committee (BLP) members and/or Board members and/or staff members to observe the space

prior to the BLP Committee meeting. The applicant/representative should be present when the space is surveyed so that they can answer questions. The space will be assessed for consideration of community impact and the Committee will work with the applicant and/or their representative to determine maximum patronage and tables in the space. There will be report of any findings to the BLP Committee at the monthly meeting.

Any past community complaints involving either the applicant or the location will be noted by the committee, including but not limited to sidewalk café complaints. The applicant/representative is then expected to identify past or future corrective actions.

If upon reviewing the plans and the site, the committee and/or community members cannot be reasonably certain that nearby residents will not be unduly disturbed by rear yard/roof top use, the application for use of outdoor space will not be recommended for approval.

Posting Requirements

The BLP Committee posting requirements are of utmost importance and require clear mention of a rear yard/roof top use on the meeting postings, when applicable. The applicant will be required to post these notices in a prominent spot in front of the establishment or he/she will be postponed to the next meeting provided the Board Office receives a letter promising not to file an SLA application until the Board has issued a recommendation. Otherwise the Board will recommend denying the use. The applicant and the Board will do everything reasonably possible to reach out to any community or owner/tenant organizations before appearing before the BLP Committee meeting.

Criteria:

When making a determination to recommend new rear yard/roof top use, the Board will consider the following conditions and will require that they be incorporated in the method of operations of the liquor license, as appropriate:

- The service and consumption of alcohol in back yard outdoor space will be only via seated food service.
- The back yard outdoor space will not allow standing space for patrons to drink/smoke.
- The Board will determine a fixed maximum number of tables and chairs and a maximum total number of patrons in the outdoor space, based on local conditions.
- The back yard/roof top outdoor space will be closed and vacated by 10 pm on Sunday through Thursdays, and 11 pm on Friday and Saturday. Additional hours of operation may be negotiable depending on proximity to residences.
- The applicant will have a lighting plan that will allow safe usage of the outdoor space without disrupting neighbors.

- Tables and chairs will not be placed in, or block access to, paths of egress or places of refuge required by the NYC fire and building regulations. Public access to common areas (for meter reading, maintenance etc.) must be maintained 24 hours/day.

- The applicant will also do everything in his/her power to provide an effective sound baffling or sound controlled environment through landscaping or some type of enclosure, where possible; provided they do not violate any fire or building code regulations. This stipulation includes possibly working with landlords for soundproofing tenants' apartments (such as installing soundproof windows, acoustical tiles, etc.)

- The applicant and his/her staff will enforce a quiet environment in the outdoor space, so as not to disturb nearby residents (e.g., there will be no amplified music, as per the law, and windows and doors to areas that play amplified music shall be closed).

- Neighbor complaints will be addressed by applicant in a timely manner and in coordination with Manhattan Community Board 4.

- The applicant will provide a cell phone- emergency number to Neighbors.

Transfers and Renewals of all Liquor Licenses with existing rear yard/roof top usage in a residential area will be subject to the same posting requirements as above. A history of significant and recent complaints on any establishment applying for transfer or renewal will require consideration of all guidelines and conditions above. Approval of transfers and renewals are not automatic and will be considered on a case-by-case basis.