

## FOOD & DRINK ESTABLISHMENTS

The following guidance is for providers of food or drink, such as restaurants, breweries that provide table service, taverns, and bars that provide table service, in addition to the general guidance that applies to all businesses:

Staff and customers must follow the general guidance on the wearing of cloth face coverings at all times, except for customers seated at a table to eat or drink, who may remove the cloth face covering while seated at the table in order to do so.

Tables and booths must be arranged in a way that ensures seated customers at one table are at least six feet apart from seated customers at another table. For booths, this typically will mean seating customers at every other booth. For freestanding tables (with pull out chairs), there should be eight feet apart to ensure that a seated guest is six feet from seated guests at other tables. Inside and outside seating must both comply with these standards. Outside seating areas must be confined to their pre-State of Emergency footprints. Tables must be disinfected in between each party.

Only members of the same household unit may be seated at a table, and guests must all have seats, be seated, and remain seated unless going to the restroom. Orders must be placed from the table, and both food and drink must be delivered to the table by the staff of the facility, a guest should not leave the table to retrieve food or drink.

For restaurants that provide table service: diners must have a reservation in order to sit down in a facility (takeout can still continue under pre-Phase 1 guidelines, but should be done without those ordering entering the dining facility when picking up order). Signage must be posted to remind people not to enter restaurant without a reservation and provide a number to call from their car in order to place a reservation.

For restaurants that do not provide table service: Counter service locations must be spaced 6 feet apart. Signage and floor markings must be present to guide patrons in appropriately spacing while in line. Staff must be designated to monitor patrons entering facility, monitor lines and ensure social distancing throughout facility.

The total number of guests within a facility shall at no time exceed 30% of the fire code occupancy.

Guests should be provided with single use, paper, disposable menus. All condiments (salt, pepper, ketchup, mustard, mayo, sugar, etc.) must be provided directly to diners in single-use disposable containers or reusable containers that are cleaned between each party.

Cups, lids, napkins, and straws must be delivered to the table after the party has been seated.

Proper precautions must be taken when handling ready-to-eat foods. Variances or other allowances for bare hand contact are void until these restrictions are lifted.

Self-service food and buffet options may not reopen.

Bar service and seating at a bar may not reopen. The bar of a restaurant may open to prepare drinks to be brought to diners at their tables.

Any to-go containers for food guests bring home after dining must be protected from possible contamination.

Every restaurant is expected to have its own reopening plan and must follow DPH guidance.

Customers should be guided to seats by staff to control traffic in, out, and through restaurant to ensure that safe social distancing is maintained as much as possible. If guiding to a table is not practical or safe, restaurant should provide clear signage and instructions to control the flow of traffic through the facility.

No activities, outside of those guests engage in while seated at a table, may take place, and any common areas where people would typically stand must be off limits if not otherwise occupied by tables with seated guests. This includes dance floors, arcade/bar game areas, pool tables, and similar spaces.

The above is an excerpt from the guidelines found here:

[https://governor.delaware.gov/wp-content/uploads/sites/24/2020/05/Delaware-Economic-Reopening-Guidance\\_Phase.pdf](https://governor.delaware.gov/wp-content/uploads/sites/24/2020/05/Delaware-Economic-Reopening-Guidance_Phase.pdf)

Below is the pertinent part (parts of paragraph 2 and 5) of the 19<sup>th</sup> Modification of the State of Emergency found here:

<https://governor.delaware.gov/health-soe/nineteenth-state-of-emergency/>

2. Effective May 22<sup>nd</sup>, 2020, at 5:00 p.m. E.D.T., Sections 524 and 541 of Title 4 of the Delaware Code (the “Delaware Liquor Control Act”) with respect to the notice and protest provisions related to the expansion of outdoor seating for food and drink establishments are hereby modified, unless otherwise determined by the Office of the Delaware Alcoholic Beverage Control Commissioner (“OABCC”) to be contrary to the public health and safety, as follows:

a. All food and drink establishments (restaurants, taprooms, craft manufacturers, etc.) may apply to expand their outdoor seating for serving food and drinks by submitting to the appropriate political subdivision a plan that meets the following minimum requirements:

1. The plan must consider local traffic patterns and parking capacity needs, but may extend the boundaries of seating beyond current property boundaries, subject to the discretion of the appropriate political subdivision and applicable property owners on all local right of ways;
2. The plan must not, at any time, intrude upon the State right of way, unless otherwise approved by the Delaware Department of Transportation (“DelDOT”) in writing;
3. The plan must maintain current access, unless otherwise approved by DelDOT in writing;
4. The plan must maintain proper access to the property for all emergency services;
5. With the exception of the 30% indoor fire code capacity limitation, the plan must follow all additional requirements for food and drink establishments outlined in the Phase 1 Business Guidelines, including any subsequent amendments, including but not limited to requiring social distancing between individuals from different households;
6. The plan must comply with the Americans with Disabilities Act (“ADA”);
7. The plan must adhere to all local noise ordinances;
8. The plan must allow for proper control over the distribution of alcoholic beverages, including a clear property boundary to prevent beverages from being removed from the premises;

9. The plan may allow for the service of drinks (alcoholic or otherwise) without the requirement to serve food; and
10. The plan may not result in total outdoor seating capacity that exceeds the indoor seating capacity that the establishment was authorized to have prior to the State of Emergency.

b. The appropriate political subdivision shall make the initial review of an application from a food and drink establishment for the expansion of outdoor seating and either (1) deny or recommend approval by OABCC for any liquor licensee, or (2) approve or deny the application for any non-liquor licensee.

c. Upon a recommendation for approval, OABCC shall review the plan as it relates to the service of alcohol on the premises, and it may request modifications or reject the plan.

d. In accordance with Section 543(g) of Title 4 of the Delaware Code, any permission granted hereunder shall automatically expire on July 31, 2020, unless it is expressly extended by the State of Emergency Order or the Code is amended to permit a longer duration.

e. The applicable local or state authority may revoke any permission granted hereunder at any time for non-compliance with the State of Emergency declarations or the business guidelines for food and drink establishments.

f. All other rules and regulations regarding food safety or alcoholic beverages shall apply to any expansion of outdoor seating.

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b. *Food and Drink Establishments.* Providers of food or drink, such as restaurants, breweries that provide table service, taverns, and taprooms that provide table service may reopen provided, however, that the total number of guests within an establishment shall not exceed thirty percent (30%) of that establishment's stated fire occupancy requirements. Additional requirements for Food and Drink Establishments are listed in the Phase 1 Reopen Plan.