

Manhattan Community Board Five

Rooftop/Rear Yard On-Premises Liquor License Policy

Overview:

This policy recognizes the need for a balance between the competing interests of the “rooftop/rear yard” amenity for restaurants and hotels and the quality of life of surrounding residents. Based on our experience, where outdoor uses are allowed, the most effective method of accommodating businesses with outdoor use and adjacent and/or nearby residents includes the control of hours and method of operation. Therefore, Community Board Five sets the following standards of review for rooftop and rear yard liquor license applications.

Site Review (when legal permanent residences exist within a two-block radius of the applicant site):

- Permitted rooftop bars/restaurants must be a minimum of ten (10) stories above abutting and cross-street residences;
- The applicant must complete a Community Board 5 Questionnaire (CB5Q) in a timely fashion, complete with the necessary drawings, photos, and/or layouts detailing the use of the space for which the liquor license is requested;
- A scheduled site visit by a representative(s) of the Public Safety and Quality of Life (PSQL) Committee of CB5 must be completed before the application is reviewed at the regularly scheduled meeting of the PSQL Committee;

Posting “Notice of Public Hearing”:

- Applicants will strictly conform to the “*Notice of Public Hearing*” policy of CB5 presently in effect for all liquor license applications;
- Applicants will furnish “*Notice of Public Hearing*” to all residential buildings within the block and residential buildings abutting the block for which the rooftop/rear yard liquor license is sought;
- Applicants will furnish “*Notice of Public Hearing*” to all developers who are developing, constructing or creating by conversions residential units within 500 feet of the applicant’s site;

Criteria (Method of Operation):

- The service and consumption of alcohol and/or food in rooftop/rear yard outdoor spaces will be primarily by seated service;
- The rooftop/rear yard outdoor space will be closed and vacated by 10:00 PM Sunday through Thursday and 11:00 PM Friday and Saturday. Additional hours of operation may be negotiable depending on proximity to residences;
- The applicant will provide an effective sound baffling or sound controlled environment through landscape or other type of enclosure, wherever possible;
- The Applicant shall provide a Certificate of Occupancy for the premises and, if the occupancy is to exceed 74 persons, a Public Assembly Permit;

- The applicant shall execute and deliver a legally-binding affidavit, whereby the applicant shall:
 - Represent (a) the square footage of the premises, (b) the capacity of the premises, (c) the “method of operation” of the premises, and (d) the number and location of all patron bars and service bars on the premises;
 - Agree to all conditions and stipulations as required by the PSQL Committee as a condition to approval of the application;
 - Agree to incorporate all of the foregoing into the “Method of Operation” included as part of the liquor license application submitted by applicant to the New York State Liquor Authority, a copy of which shall be simultaneously submitted to CB5;

Transfers and Renewals:

Transfers and renewals of all liquor licenses with existing rooftop or rear yard outdoor space in a residential area will be subject to the same review policy requirements as stated above. Approvals of transfers and renewals are not automatic and will be considered on a case-by-case basis.

Grandfather Clause:

These requirements shall apply to all new on-premises liquor license applications for rooftop/rear yard outdoor space reviewed by the PSQL Committee after the adoption of this policy. Existing establishments in good standing with Community Board Five that become licensees prior to the adoption of this Rooftop Policy shall be required to maintain their current method of operation. Notwithstanding the foregoing, any existing establishment that has generated community complaints or negative police reports, that attracts violence or illegal activity, and/or creates a public nuisance, shall not benefit from this “grandfather” clause and may be subject to these restrictions or even stricter scrutiny and possibly referred to the State Liquor License Authority for enforcement action.

Policy Review:

This policy shall be reviewed every two years by a working group of the PSQL Committee to ensure that these restrictions remain relevant and current over the course of time.

Recommendations based on the findings of this working group shall be made by the PSQL Committee for consideration by the full CB5 Board.