

OPEN FOR BUSINESS

*Saving our small
businesses post-COVID*



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Open for Business: Saving Our Small Businesses Post-COVID



New York City is defined by its local businesses. Every New Yorker has a favorite restaurant, a cherished neighborhood store, or an essential and convenient business that they rely on. These businesses give us both a reason to live in our community and to stay in New York City.

Our small businesses also drive our economy. According to The Center for an Urban Future's analysis, small businesses account for 1.2 million jobs and \$65.5 billion in revenue.ⁱ

Now, more than ever, our small businesses need hope. The combination of the COVID shut-down, mass unemployment, fiscal crisis, and possibility of a resurgence has led to uncertainty for our small businesses. Already, New Yorkers have read stories of cherished local businesses facing closure.ⁱⁱ

Before the pandemic, businesses were struggling with competition from e-commerce, rising rents, the increased cost of doing business, and more. Now, businesses face an uncertain future as those costs are met with the financial struggle of a COVID shutdown, a collapsing economy, and an ongoing pandemic.

The depth of this crisis is hard to fathom:

- According to a Hospitality Alliance survey, only 19% of New York City businesses paid June rent and only 26% of landlords waived any rent.ⁱⁱⁱ
- A survey from the Brooklyn Chamber of Commerce showed that 46% of businesses in Brooklyn missed rent payments in May 2020.^{iv}
- 53.7% of businesses in the New York City region reported having "large negative effects" in relation to COVID-19.^v
- New York City's unemployment rate was 20% in June 2020, compared to 3% at the same point in 2019.^{vi}
- New York State has lost 510,900 jobs in leisure and hospitality alone between June 2019 and June 2020.^{vii}

The fiscal crisis, paired with the potential for a second wave of COVID-19, creates a risk that small businesses will be impacted for years to come. Even as the city emerges to normalcy, the



possibility of capacity limitations and the public health risk associated with indoor activities leads to the likelihood that certain businesses will not operate at full capacity or even open until 2021. The need to provide both financial and regulatory solutions could not be more clear.

The city, state, and federal governments need to marshal our creativity and resources to help small businesses more than ever before.

In recent months, the city, state, and federal governments have taken important steps to assist small businesses:

- **Federal financial assistance:** The Paycheck Protection Program (PPP) and Economic Injury Disaster Loans (EIDL) provided tangible benefits for businesses by offering direct relief through rent and payroll assistance.
- **SBS financial assistance:** Small Business Services (SBS) in New York City offered two early intervention financial programs, the Employee Retention Grant and Small Business Continuity Loan, to assist businesses impacted by COVID.
- **Outdoor dining, takeout/delivery, and third-party caps:** The city and state provided restaurants and bars a lifeline by allowing for expanded opportunities for revenue and capping third-party fees.
- **Personal liability restrictions:** The City Council passed a law to prevent personal liability clauses in leases from threatening a business owner's savings.
- **Eviction moratorium:** Governor Cuomo extended the moratorium on eviction of commercial renters who face financial hardships due to the coronavirus through August 20. In addition, late fees and missed payment fees are banned.



Immediate Steps to Help Our Small Businesses



It is clear that assistance from the federal government will be a critical part of recovery for New York's small businesses, but the city and state also need to take action in the meantime rather than waiting for federal dollars to show up. The challenge for New York City will be providing the much-needed financial resources in the midst of a fiscal crisis. This will be no easy task with the looming deficits. However, these businesses will play an important role in the bounceback of the city's economy.

As we consider ways to support our city's small businesses, it will be essential to ensure business owners from all industries have a seat at the table and are represented on the city and state's reopening advisory councils.

It needs to be stated that all of these programs will need work in tandem with public health goals to reduce the spread of COVID-19. New Yorkers need to continue to wear masks, social distance, and prevent the spread of the virus. If we do not heed this call, we will only continue to hurt these businesses that rely on reopening.

I. Financial Assistance

Businesses will need financial help more than anything else. This will include filling revenue gaps with public stimulus dollars, but also temporarily removing unfair costs, like the Commercial Rent Tax (CRT) in Manhattan. And of course, ensuring that safety nets like business interruption insurance actually cover these small businesses.

Here are a few steps that the city can take to help out:

A. Provide Emergency Rent Relief to Small Businesses

The City should utilize future federal stimulus funds to establish a new financial assistance program modeled after the PPP to help small businesses pay rent. The PPP proved to be so critical because of both its efficacy and speed and business leaders have stressed that direct financial assistance programs need to be easy and rapid.^{viii} This new program would provide businesses that can demonstrate a loss of income due to COVID



with financial assistance for rent similarly to the funding PPP provided to maintain payroll.

Ideally, this financial assistance would be in the form of grants to prevent small businesses from having to incur additional debt. If these funds cannot fiscally be structured as grants, they should be zero-interest or low-interest loans that could be repaid over an extended period to reduce the monthly cost to the business.

In New York City, rent poses a unique challenge for small businesses compared to other parts of the country. Rather than abide by the rules governing the national small business relief programs, Congress should allocate federal stimulus funding to the City so that we could create a rental assistance program to address the issue of the exorbitant rent burden our small businesses have faced.

- *Small Business Services (SBS) should create a new “Open for Business” financial assistance program to help COVID impacted businesses cover rent costs*

B. Waive the Commercial Rent Tax (CRT) During Current State of Emergency

For businesses that will be able to resume operations after Phase 4, offer them an easy reduction on their rent by waiving the Commercial Rent Tax--an unfair tax placed solely on Manhattan businesses south of 96th Street. My bill, co-sponsored by Council Member Margaret Chin and Borough President Gale Brewer, would temporarily suspend the Commercial Rent Tax during the COVID-19 State of Emergency for businesses with a base rent lower than \$1 million. Our top priority should be providing relief for smaller and medium-sized businesses that are struggling.

- *Pass forthcoming legislation (Powers) in the New York City Council*

C. Ensure Business Interruption Insurance Covers COVID-19

During the state of emergency, many businesses discovered that their business interruption insurance did not cover a pandemic like COVID-19.^{ix} We must eliminate this loophole to ensure that moving forward, businesses are not paying for insurance that does not actually protect them in times of need.

- *Pass A.10837 (Carroll) in the State Legislature*



D. #SaveOurStages

Federal aid should give particular consideration to businesses, such as Broadway theaters and independent music venues, which cannot operate at reduced capacity and will be among the last to reopen. These “Phase 5” businesses -- which have no current timeline for reopening -- will be lost without extended financial assistance.

Two bills in Congress provide hope: the RESTART Act (S. 3814/H.R. 7481) and Save Our Stages Act (S. 4258). The RESTART Act specifically targets the businesses hardest hit by the pandemic and offers more flexibility in how loans can be spent, while the Save Our Stages Act would provide \$10 billion in grants to independent music and entertainment venues.

- *Pass the RESTART Act (S. 3814/H.R. 7481) and the Save Our Stages Act (S. 4258) in the Congress*

II. Remove Regulatory Hurdles

Businesses are already complaining about a regulatory scheme in the city and state that is overly punitive and raises revenue for the city through fines and fees. Recently, the state has provided confusing guidance to restaurants and bars about reopening, matched with heavy enforcement. Now is the time to end these punitive practices, at least temporarily.

The city should also get creative in using its own purchasing power to benefit the countless small businesses that shell out money for software and technical assistance.

A. End Unnecessary Fines and Create Blanket Grace Periods

Small businesses need time to recover. Unfortunately, the city budget relies on fines as a means to fill the coffers. In the coming years, small businesses will need a lifeline against unnecessary and costly fines.

Earlier this year, the Mayor announced the termination of certain fines that were outdated and costly.^x It’s time to expand that list. The last few weeks in particular have demonstrated how constantly-changing guidelines and enforcement can add up to create untenable costs for businesses struggling to hang on. We need to take a serious and comprehensive look at fines and fees to identify additional areas for reform.

- *The Mayor should convene Small Business Services (SBS), Department of Consumer Affairs (DCA), Department of Sanitation (DSNY), Department of Health (DOHMH), and other agencies to establish a grace period on fines and fees.*



- *The City Council should pass legislation to reform these fines and fees.*

B. Use Procurement and Economies of Scale to Help Small Businesses

New York City has tremendous procurement authority, including the ability to negotiate better prices than small businesses on essential services, whether it's software or supplies. Unfortunately, New York does not put this purchasing power to use on behalf of the small businesses that reside within the city. Even a negotiated lower price on software would provide a financial benefit to the thousands of small businesses that need to do accounting and/or payroll. Singapore has a model for this that New York City should pilot during and after COVID-19.^{xi}

- *The Mayor's Office and Economic Development Corporation (EDC) should create a pilot program to utilize economies of scale for procurement and make certain products available to small businesses at a lower price point.*

III. Expand Existing Programs

As a city, we all have recognized the vitality of our small businesses and the city, state, and federal governments have taken steps to assist small businesses survive this crisis. We must expand and extend these measures to continue to support businesses getting back on their feet and help them to one day reach an even footing, so we can all see our city thrive again.

Here are the measures that should be extended or expanded:

A. Extend Eviction Moratorium and Personal Liability Legislation

When the current eviction moratorium for commercial tenants expires on August 20, most small businesses will still be a long way from recovery. Residential tenants experiencing hardship due to COVID-19 have been handed a lifeline by the Tenant Safe Harbor Act, but no similar relief has been extended for commercial tenants. Similarly, the City Council's recently-passed legislation to temporarily prohibit the enforcement of personal liability provisions in commercial leases for COVID-impacted tenants is set to expire on September 30.

- *Through an executive order or state legislation, the Governor and State Legislature should extend the eviction moratorium for commercial tenants by one year*
- *Amend Local Law 55 of 2020 to extend personal liability protections by 180 days*



B. Extend Outdoor Dining

Outdoor dining has brought new life to the city. It has allowed New Yorkers to enjoy their favorite establishments and socialize in a safe and healthy manner. It has also provided an essential way to keep our favorite restaurants, bars, and cafes in business. New York should learn lessons from this moment and extend outdoor dining permanently.

- *Extend the expiration date on Intro. 1957 (Reynoso) and work with city agencies to establish criteria for a long-term program*

C. Extend Takeout and Delivery Rules

During the pandemic, restaurants and bars found a lifeline through takeout and delivery service. It highlighted the archaic Alcohol Beverage Control Law (ABC) that places restrictions on the items that can be delivered. In the earliest phases, the State Liquor Authority's (SLA) relaxation of the rules on takeout and delivery played a role in helping businesses reopen, rehire, and restart. The temporary lifting of restrictions should be extended.

- *Pass S.8565/A. 10534 (Benjamin/Cymbrowitz) in the State Legislature*
- *Pass forthcoming resolution (Powers) in the City Council in support of State Legislation*

D. Cap Third-Party Fees Beyond State of Emergency

For businesses that are struggling to stay afloat during and after the COVID, the city should extend the cap on third-party apps. The current law passed by the City Council extends it for 90 days. The cap should be extended by 120 days to allow for 4 extra months for restaurants to recover from COVID without excessive fees.

- *Amend Local Law 52 of 2020 to extend it 120 days*

E. Enable Street Vendors to Take Part in the Open Streets Program

Street vendors play an important role in our city's economy and must be included in efforts to support small businesses. The Open Streets program provides an opportunity to include vendors in our plan for recovery and vision for a revitalized streetscape.

- *Create a program to grant temporary vending permits allowing street vendors to vend in locations identified by stakeholders within the Open Streets program, and*



work with the Department of Health (DOHMH) and Department of Transportation (DOT) to craft appropriate regulations limiting the number and density of vendors on each Open Street to allow for social distancing and multiple uses of the street.

IV. Targeted Employment Assistance

Many demographics of workers have been ignored, forgotten, or inadequately supported throughout the COVID-19 business shutdown. New York City, in particular, has a large population of workers who have been left to fend for themselves when their jobs were put on pause and unemployment insurance was not available.

New York should provide support to these workers through targeted assistance. The city and state should address the needs of undocumented workers and should invest further in wage subsidies.

A. Extend Financial Assistance to Undocumented New Yorkers

Immigrants have been essentially shut out of federal relief programs, despite playing an essential role to the local and national economy. According to the Center for an Urban Future, 95 to 100% of undocumented New Yorkers have been unable to access federal financial assistance.^{xii} Small business owners have themselves called for help in light of the important role that undocumented New Yorkers play in many industries, such as the hospitality industry.^{xiii}

The Mayor has partnered with Open Society Foundations to provide one-time emergency payments to immigrant workers and their families--regardless of immigration status--during the pandemic. This fund will need more resources: many community-based organizations involved in distributing the funds reported receiving an overwhelming number of requests for aid even before the program began.^{xiv} This financial support was important, but only a one-shot program that provided limited support to undocumented families. Unfortunately, the need is high and the resources are due to run out over the summer.

- *The City should enhance financial support to non-profit providers on the front-lines of helping undocumented workers as new revenues become available*
- *The Mayor should tap into additional private and foundation support to build financial support for undocumented workers that have been unable to receive unemployment or other financial assistance programs*



B. Expand the Wage Subsidy Program

Each year, the Federal and State government underfund an important wage subsidy program that helps put low-income New Yorkers to work. During the 2008 fiscal crisis, the Obama administration funded this program by \$14 million in New York State.^{xv} The current budget for this program is \$475,000.^{xvi}

- *The State should expand and fund this program with a new short-term revenue source to help cover wages for low-income New Yorkers.*

Small businesses are the lifeblood of New York City, and if we want them to survive in a post-COVID city, we need to take action. We can begin by providing financial assistance, removing regulatory hurdles, expanding existing programs, and supporting targeted employment assistance. This moment calls for innovative solutions and for a collaborative effort that includes the voices of small business owners across a wide range of industries. New York City will be different post-COVID—and we must do all we can to maintain the vibrancy of our communities and local economy by supporting our small businesses in a post-COVID world.



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