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**The City of New York
Community Board 8 Manhattan**

May 19, 2022

Edward F. Pincar
Manhattan Borough Commissioner
Department of Transportation
59 Maiden Lane, 37th Floor
New York, NY 10038

RE: Sidewalk Café Permanent Open Restaurant Policies

Dear Commissioner Pincar,

At the Full Board meeting of Community Board 8 Manhattan held on May 18, 2022, the board **APPROVED** the following resolution by a vote of 39 in favor, 0 opposed, 2 abstentions and 0 not voting for cause:

WHEREAS; New York City Department of Transportation has proposed changes to the sidewalk café program under the Permanent Open Restaurants Program; and

WHEREAS; Community Board 8 has long established policies regarding sidewalk cafes that have worked well for Community District 8; and

WHEREAS; Community Board 8 seeks to ensure that restaurants that had legal sidewalk cafes prior to the Covid-19 pandemic are able to continue their sidewalk operations to the same degree as at they did pre-pandemic; and

WHEREAS; There have been concerns raised regarding the sidewalk café element of the emergency Open Restaurants program regarding overbuilt structures and encroachment of structures on pedestrian flow resulting from narrow sidewalks; and

WHEREAS; the Environmental Assessment Statement developed for the related zoning text amendment included many specific policies and rules proposed for the Permanent Open Restaurants Program regarding sidewalk cafes that are reasonable and appropriate;

THEREFORE, BE IT RESOLVED, that Community Board 8 urges NYCDOT to establish the following additional proposed Permanent Open Restaurant Rules specific to sidewalk cafes:

- Sidewalk cafes should be subject to Community Board input in the same way they were pre-pandemic;
- Establishment of clear path guidelines should be determined in the same manner as they were pre-pandemic;
- Clear path measurements should be based off of occupied sidewalk café seating;
- Sidewalk cafes should be situated up against the wall (or as close as possible) of the business;

- Seating must be kept clear of the amenity zone (the portion of the public right-of-way between the curb and the sidewalk that is outside of the pedestrian walking area);
- A minimum established clear path of at least 8 feet for pedestrians shall be maintained, except that restaurants in certain locations with low pedestrian volumes shall be able to apply for a waiver to achieve a minimum clear path width of 6 feet, so long as the applicant can demonstrate that pedestrian flow and accessibility needs can be met and are considered fully ADA accessible, and with eligibility for a 6-foot clear path no less restrictive than the rules that applied pre-pandemic;
- A 50 percent clear path rule would apply that would require wider than 8-foot or 12-foot clear paths on sidewalks where 50 percent of the sidewalk width is greater than these respective minimum clear path widths; so as long as the policies are no more restrictive than pre-pandemic;
- Any restaurant located in a central business district (CBD) location should be subject to clear path requirements that are no more restrictive than pre-pandemic;
- While food establishments may install outdoor comfort heating equipment to serve new sidewalk seating locations, these would be limited to radiant heaters fueled by electricity or natural gas;
- Seating would be generally unenclosed and not designed for winterization.

Please advise us of any action taken on this matter.

Sincerely,

Russell Squire

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Chair

Craig Lader and Charles Warren

Craig Lader and Charles Warren
Co-Chairs, Transportation Committee

cc: Honorable Eric Adams, Mayor of the City of New York
Honorable Carolyn Maloney, 12th Congressional District Representative
Honorable Mark Levine, Manhattan Borough President
Honorable Liz Krueger, NYS Senator, 28th Senatorial District
Honorable José M. Serrano, NYS Senator, 29th Senatorial District
Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
Honorable Rebecca Seawright, NYS Assembly Member 76th Assembly District
Honorable Julie Menin, NYC Council Member, 5th Council District
Honorable Keith Powers, NYC Council Member, 4th Council District