

Fact Sheet - Key Proposed Permanent Open Restaurant Program Policies and Rules Noted in the Environmental Assessment Statement

Proposed Permanent Open Restaurant Policies Applicable to BOTH Sidewalk and Roadway Seating:

- Must remain within the frontage of the establishment
- Must adhere to all local, state, and federal requirements relating to accessibility for people with disabilities, including path of travel, minimum table heights, and clearance requirements;
- Propane heaters would not be allowed
- Permanent fully enclosed structures would be prohibited
- Eligibility would be limited to restaurants with an active Department of Health and Mental Hygiene (DOHMH) food service establishment license and ground floor frontage;
- Must adhere to all applicable guidance issued by NYCDOT, DOHMH, the New York State Department of Health, and the State Liquor Authority; and
- Seating within a Historical District would be continue to be subject to LPC review (as currently required) through LPC's FasTrack Service or a similar program. LPC would issue guidance on what kinds of sidewalk or roadway restaurant seating perimeters would be approved for installation
- The installation of sidewalk and roadway restaurant seating adjacent to an individual architectural resource or within a S/NR-listed or S/NR-eligible historic district would not be subject to LPC review (except in the unusual case where the Landmark site of an individual NYCL includes the sidewalk)
- Full NYCDOT enforcement unit to enforce roadway structures, ADA Compliance, clear path, and amplified noise devices (As noted on NYCDOT Website); NYPD to Enforce Noise (As stated in Borough Board Powerpoint)

Proposed Sidewalk Seating Requirements/Policies:

- Must remain within the frontage of the establishment
- Permanent fully enclosed structures would be prohibited
- Must be situated up against the wall (or as close as possible) of the business
- Seating would 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 (at least 8 feet) for pedestrians to be maintained
 - In certain central business district (CBD) locations, a minimum clear path width of 12 feet may be required where achievable; and
 - In certain locations with low pedestrian volumes, restaurants may 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.
 - A 50 percent clear path rule would also apply, requiring 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
- 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.
- Propane heaters would not be allowed
- Seating would be generally unenclosed and not designed for winterization
- Siting Requirements (See Below)

Proposed Roadway Seating Requirements/Policies:

- Located within the frontage of the establishment
- Permanent fully enclosed structures would be prohibited
- Limited to no farther than 8 feet from the curb line.
- All seating and any protection would be fully contained within the parking lane and would be prohibited from encroaching on any bike lane, vehicle travel lane, or painted buffer

- A minimum 18-inch wide and 30 to 36-inch high protective barrier, such as planters or objects of similar size and weight, would be required on all three sides of the seating perimeter that are in the roadway in order to separate the seating from the travel lane.
- ADA compliance via ramp or platform
- Must maintain established offset distances from obstructions and infrastructure
- Prohibited from No Standing Anytime and No Stopping Anytime zones, as well as bus lanes or stops, taxi stands, or designated car share parking spaces
- Comfort heating equipment would not be allowed in roadway seating areas, which would be limited seasonally and would not operate during the coldest months on the year.
- Propane heaters would not be allowed
- To prevent impacts to roadway traffic, the proposed roadway seating would only be permitted for months when roadway snow plowing activities are generally not required.
- Seating areas would be used to serve restaurant patrons during restaurant hours of operations and would not be publicly accessible outside of restaurant hours.
- Participating restaurants would be required to keep the interior of their roadway dining areas clean, and would also be responsible for cleaning up to 18 inches along the outside of their roadway dining setouts to prevent the accumulation of litter around the exterior of these areas.
- Participating restaurants would also be required to clean along the curbline for 8 feet in either direction from the edges of their roadway dining set out to prevent litter accumulation in areas made inaccessible by DSNY mechanical brooms due to minimum turning radius.
- Siting Requirements (See Below)

Proposed Noise Mitigation Policies:

Controls would include the following measures that in combination would restrict noise-producing behavior associated with outdoor restaurant seating and avoid the potential for noise impacts associated with the program:

- Promulgation of rules in accordance with the City Administrative Act that incorporate and enhance the existing DCWP sidewalk café controls;
- Referral of community noise disputes to alternative dispute resolution through the Mediating Establishment and Neighbor Disputes NYC program (MEND NYC); and
- Highlighting for the restaurant community the license requirements that control noise (including the potential for termination of a license for non-compliance) through education and outreach such as an explicit “Code of Conduct” for potential licensees.

NYCDOT proposes to institute these above controls through the promulgation of rules in accordance with the City Administrative Procedure Act that incorporate the existing DCWP sidewalk café controls. The existing rules include:

- Prohibition on amplified sound within roadway, sidewalk, and interior Open Restaurant spaces per 6 RCNY 2-53(f) and 57(b);
- Prohibition on excessive congregation within or immediately adjacent to Open Restaurant setups per 6 RCNY 2-51(a) and (b);
- Prohibition of exceedance of maximum occupancy within Open Restaurants areas pursuant to license requirements for seating and table limits per 6 RCNY 2-51(a) and (b); and
- Prohibition on party noise and disorderly conduct per 6 RCNY 2-57 (b), (e) and (f).

NYCDOT will promulgate new rules that go beyond the controls in the existing DCWP sidewalk café program. These may include rules relating to the application process, siting criteria, fines, and penalties. These rules will also require licenses for restaurants and provide that failure to comply with the above stated controls could result in the termination of such licenses.

Furthermore, NYCDOT will coordinate with other City agencies to resolve compliance issues. This coordination will include monitoring 311 noise complaints of program participants and working with DEP to confirm violations of the Noise Code by program participants. NYCDOT will commit resources, including new inspectors, to ensure compliance with these requirements.

Finally, NYCDOT will coordinate with other City agencies such as the Mayor’s Office of Nightlife and the Office of Administrative Tribunals and Hearings to develop programs for licensed operators that will support compliance and reduce the amount of enforcement actions such as. a licensee “Code of Conduct” and alternative dispute resolution through the Mediating Establishment and Neighbor Disputes NYC program (MEND NYC).

Proposed Sidewalk Seating Siting Rules	
Fire Hydrants	Clear path 8' requirement measured from this obstruction
Siamese connections/standpipes	1'
Perimeter fence height (maximum)	2.5'
Bus stop shelters	10'
Bus stop poles	8'
Subway Entrances (open end)	15'
Transformer vaults/subway grates	1'6"
Other Sidewalk Cafes	0' (contiguous cafes)
Newsstands	10'
Obstructions greater than 15 sf (Public Restrooms, Citibike Stations, etc.)	10'
Traffic Signal	8'
Telephone Booths/Kiosks	5'
Mail Boxes	4'
Street Light	8'
Tree Pit (with fencing/guards)	8'
Bicycle Racks	8'
Subway Entrance (closed end)	Clear path from obstruction if along curb If along the building, 1'
Other Street Furniture, less than 15 sf (LinkNYC)	5'
Cellar Door (when closed, locked and reinforced)	0'
Curb cuts, driveways, parking lots and loading docks	5'
Primary Building Entrances	5'
Freight Elevator or Service Entrances	0'
Retail (and other building) Entrances	0'
Building Projection (Stoop, Step, Stair)	0'
Exhaust ducts (above sidewalk grade)	10'
Awnings (above sidewalk grade)	7'
Enclosed Cafes	No new enclosed cafes
Service aisle	Assumes service aisle is within café designated areas
Level of Sidewalk Seating	Level of Sidewalk (no platform)

Proposed Roadway Seating Siting Rules	
Protective Barriers (height)	2.5'-3'
Protective Barriers (width)	12"-18"
Curblines	8'
Crosswalks	8'-15'
Hydrants	15'
No Standing Anytime, No Stopping Anytime, bike lane, bus lane/stop or Car share space	Cannot block
Taxi stands	Cannot block
Accessible Entry	3'
Accessible Path of Travel	3'
Wheelchair Turning Space	5'
Shelter	not to exceed 400 sf

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