

# Times/Hours of Operation

- Roadway Cafes prohibited from November 30<sup>th</sup> to March 31<sup>st</sup>
- Restaurants with revocable consents for roadway cafes may occupy the area from March 24<sup>th</sup> to December 7<sup>th</sup>
- If not used and occupied for outdoor dining for thirty (30) consecutive days or more, they must be removed from the sidewalk and roadway by the licensee.
- Sidewalk cafes and roadway cafes may operate only during the following hours and days:
  - Sunday, 10 a.m. to midnight (Enclosed sidewalk cafes permitted to operate before 10AM)
  - Monday, 8 a.m. to midnight
  - Tuesday, 8 a.m. to midnight
  - Wednesday, 8 a.m. to midnight
  - Thursday, 8 a.m. to midnight
  - Friday, 8 a.m. to 1 a.m. Saturday
  - Saturday, 8 a.m. to 1 a.m. Sunday

# General Rules

- **Requirement for a License and Revocable Consent:** Any person owning, leasing, managing or operating a **ground floor** restaurant upon **property which abuts upon any street** may establish and operate a sidewalk cafe **upon the sidewalk or sidewalk widening** of such street in an area **immediately adjacent to its premises**;
- or a **roadway cafe** upon the **roadway adjacent to the curb in front of such ground floor restaurant**, or both, provided that such sidewalk cafe or roadway cafe be granted a license and a revocable consent
- Enclosed sidewalk café licenses granted pre-pandemic will be grandfathered in; all new enclosed sidewalk requests will go through the NYC Dining Out Program process
- A license to establish and operate a sidewalk cafe or a roadway cafe shall be personal to the applicant and may not be sold, leased or transferred
- term of a revocable consent to operate a sidewalk cafe or roadway cafe shall be one license term (i.e., four years)
- Where the petitioner is not the owner of the property in front of which the sidewalk cafe or roadway cafe is located, such owner's written, signed and notarized consent of such petition.
- A certification from the petitioner that they have entered into a contract with a licensed pest professional that includes pest control services for the sidewalk cafe or roadway cafe.
- Petitioner must submit proof of insurance
- When two or more ground floor restaurants share the same sidewalk and roadway frontage, the ground floor restaurant that first submits a complete and accurate petition for a revocable consent pursuant to this chapter shall have priority for the operation of a sidewalk cafe or a roadway cafe in such frontage.

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# General Rules (continued)

- **Alcohol Consumption:** No beer, alcoholic or spirituous liquors shall be served at a sidewalk cafe or a roadway cafe, unless permitted by the New York State Liquor Authority.
- **No Smoking:** Smoking or using electronic cigarettes is prohibited within sidewalk cafes and roadway cafes
- **Must be ADA Compliant:** A sidewalk cafe and roadway cafe must be directly accessible to persons with physical disabilities, including that the design of such cafe shall fully comply with applicable requirements of the Americans with Disabilities Act and rules promulgated thereunder, and applicable requirements of the New York City Building Code.
- **Lighting:** shall not be glaring, or overly bright, to the immediately surrounding area and shall illuminate only within the sidewalk cafe or roadway cafe.
- **During hours when a sidewalk cafe or roadway cafe is not operating,** the licensee must secure all furnishing and decorative elements of such sidewalk cafe or roadway cafe, such as tables and chairs, using a cable or other locking system.
- **No portion of a sidewalk cafe or roadway cafe shall be located in the furnishing zone and no items associated with such sidewalk or roadway cafe shall be placed or stored in the furnishing zone (the part of the street right-of-way between the sidewalk and the curb, surfaced in hard materials like concrete or unit pavers)**

# Heating

- Heating units will be permitted for both sidewalk and roadway cafes
- Heating units must comply with all applicable laws, rules, and regulations and must be approved for use in such sidewalk cafe or roadway cafe by NYC Department of Buildings and FDNY.
- Such heating units shall only be located within the area of the sidewalk cafe or roadway cafe for which the revocable consent and license to operate such cafe has been granted.

# Site Plan/Drawings

- A site plan comprised of an accurate drawing depicting **required clearances, the space to be occupied, and the locations of tables, chairs, barriers and vertical elements** in the form provided on the Department's website. Such site plan must delineate the property line where outdoor dining will be operated on private property adjacent to a sidewalk cafe, if applicable. Such drawings may be, but are not required to be, developed by an architect, engineer, or other professional third party

# Landmark Districts/Sites

- Approval by the Landmarks Preservation Commission of a license application is required where the petition for a revocable consent to operate a sidewalk cafe or roadway cafe includes work or improvements on a sidewalk cafe or roadway cafe that is:
- Located within a historic district;
- Located on a landmark site;
- Attached to a landmark; or
- Attached to an improvement containing an interior landmark.

LPC shall make a determination on such application no later than 10 business days after the date of receipt of a complete application, unless LPC determines that such sidewalk cafe or roadway cafe may have an effect on the exterior architectural features of a landmark or a building or buildings within a historic district and a public hearing is required.

# Sidewalk Cafes – Revocable Consent Review Process

- **Community Board Review:** No later than 40 days after receipt of such petition, a Community Board must either:
  - (1) Notify the public of such petition, conduct a public hearing thereon, and submit a written recommendation to the Department, provided that where such recommendation is submitted later than 40 days after receipt of such petition, such recommendation may be accepted by the Department at the sole discretion of the Department; or
  - (2) Waive, by a written statement, its public hearing and recommendation on such petition in accordance with the requirements set forth in subdivision (b) of section 19-160.2 of the Administrative Code.
- **NYCDOT shall hold a public hearing when:**
  - A Community Board has submitted a recommendation to deny the petition;
  - A Community Board has submitted a recommendation to approve such petition with substantial modifications or conditions and the petitioner does not agree to adopt such modifications; or
  - The Department has determined that such a hearing would be beneficial to address a concern about the effect of a sidewalk cafe at the proposed location.

During the NYCDOT's review period, it shall send the petition to city agencies whose operations may be affected by such petition for review and comment, including but not limited to the New York City Fire Department, the Mayor's Office for People with Disabilities, and LPC.

At least 15 days prior to the date of a hearing required to be held NYCDOT will give notice to the Community Board for the district in which the sidewalk cafe is proposed to be located of the public hearing date.



# Sidewalk Cafe Located Entirely in Sidewalk

- Term: one license term (i.e., four years) and shall be concurrent with such license term.
- A consent may not be assigned, transferred, or otherwise conveyed without the permission of the Commissioner.
- The site plan shall delineate the property line that separates the sidewalk from the sidewalk widening.
- A public hearing is not required – NYCDOT will review

# Roadway Cafe Revocable Consent Review Process

- NYCDOT shall, within 10 business days of the filing of a complete and accurate petition to operate a roadway cafe, forward such petition by electronic mail to the Council Member in whose district the roadway cafe is proposed to be located, and to the Community Board for the community district in which the roadway cafe is proposed to be located.
- The Community Board and the affected Council Member may submit comments to the Department not later than 30 days after receipt of such petition.
- NYCDOT shall hold a public hearing prior to granting a petition for a revocable consent to operate a roadway cafe, or for renewal of such a revocable consent, or for modification to the location of a roadway cafe or to increase the area of a roadway cafe by ten (10) percent or greater
- During the Department's review period, the Department shall send the petition to other agencies whose operations may be impacted by such petition for review and comment. The Department shall approve the petition, disapprove it, or approve it with modifications.
- NYCDOT may deny a petition for a revocable consent without a hearing if, in the sole judgement of the Commissioner, the granting of such revocable consent would interfere with the use of inalienable property of the City (including but not limited to roadways and sidewalks) for public purposes or would otherwise not be in the best interest of the City.

# Annual Fee Schedules

## Grandfathered Enclosed Sidewalk Cafes:

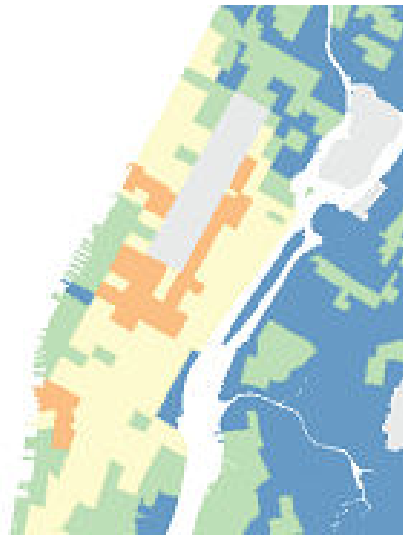
- Compensation to be paid annually during the continuance of the consent at the rate required to be paid for such cafe as of March 16, 2020: \$5,378.13 for the first 70 SF, plus \$42.02 for every additional SF of sidewalk space
- On January 1, 2028, and every 4 years thereafter, the Department may increase or decrease such compensation for an enclosed sidewalk cafe in accordance with increases or decreases in the sector rate.

## New Sidewalk and Roadway Cafes:

	<u>Sidewalk Cafe</u>	<u>Roadway Cafe</u>
<u>Granting of license</u>	<u>\$1,050</u>	<u>\$1,050</u>
<u>Renewal of license</u>	<u>\$1,050</u>	<u>\$1,050</u>

## Fees per square foot

	Sidewalk	Roadway
■ Tier 1	\$6	\$5
■ Tier 2	\$10	\$8
■ Tier 3	\$18	\$14
■ Tier 4	\$31	\$25



# Enclosed Sidewalk Cafes

- A revocable consent for an enclosed sidewalk cafe shall provide for compensation to be paid annually to the city during the continuance of the consent at the rate required to be paid for such cafe as of March 16, 2020: \$5,378.13 for the first seventy (70) square feet plus \$42.02 for every additional square foot of sidewalk space occupied by an enclosed sidewalk cafe in Zone One (which encompasses all of Community District 8);

# Maintenance

- Sidewalk cafes and roadway cafes shall be kept clean, well-maintained, and clear of trash, debris, graffiti, vermin, food scraps, and unsanitary conditions.
- A licensee shall also keep clean the area of the roadway extending one and one-half feet distance beyond any roadway cafe on all sides of such roadway cafe.
- A licensee shall not store trash or other items within a sidewalk cafe or roadway cafe, except that in roadway cafes rigid receptacles with tight-fitting lids are permitted.

# Noise

- No loud or unnecessary noises may emanate from a sidewalk cafe or roadway cafe.
- No musical instruments or sound reproduction or amplification devices shall be operated or used within a sidewalk cafe or roadway cafe, except where authorized pursuant to a street activity permit issued
- Where practicable, NYCDOT may refer community noise disputes to alternative dispute resolution through the Mediating Establishment and Neighbor Disputes NYC program (MEND NYC), or a successor program.
- A licensee must fully comply with the New York City Noise Code, as applicable.

# Siting Requirements

- A clear path shall remain on the sidewalk or sidewalk widening after installation of a sidewalk cafe.
- The clear path shall be measured from the outer edge of the perimeter of the sidewalk cafe to the nearest element or object affixed to the sidewalk between such perimeter and the nearest curb line, or if there is no such element or object, to the nearest curb line.
- The Rules include a table detailing required clearances for virtually every possible element/object.
- A sidewalk cafe shall not be located over or block a lengthy list of objects listed in the rules.
- No element of a sidewalk cafe shall be affixed to any fire escape stairs or other components of a fire escape.
- Minimum required clear paths: Generally, either 50% of the width of the sidewalk, or the following:

<u>CORRIDOR CATEGORIES</u>	<u>REQUIRED CLEAR PATH</u>
<u>Global Corridors</u>	<u>12 Feet</u>
<u>Regional Corridors</u>	<u>10 Feet</u>
<u>Neighborhood Corridors</u>	<u>8 Feet</u>
<u>Community Connectors</u>	<u>8 Feet</u>
<u>Baseline Streets</u>	<u>8 Feet</u>

# Siting Requirements (Continued)

- A roadway cafe shall be located within space dedicated for parking, including metered and non-metered spaces and alternate side parking spaces.
- A roadway cafe shall not be located within part-time or full-time travel lanes, including bicycle lanes and bus lanes, bus stops, dedicated use parking spaces, authorized vehicle parking spaces, or commercial vehicle parking spaces.
- A roadway cafe may be located within one or more angled parking spaces subject to approval by the Department. In such instances, NYCDOT may modify requirements to promote vehicular and pedestrian traffic safety, including but not limited to providing appropriate clearances from the travel lane and adjacent parking spaces, and preserving sight distance.
- The maximum length of a roadway cafe shall be 40 feet.
- The maximum width of a roadway cafe shall be 8 feet; NYCDOT may require a maximum width of a roadway cafe to be less than 8 feet where necessary to address a safety concern based on roadway width, roadway geometry (e.g., number of traffic lanes, the presence and composition of bicycle lanes and parking lanes, etc.), or proximity to an intersection, or to facilitate the traversing of emergency vehicles on such roadway.
- A 15-foot emergency travel lane shall be maintained on every roadway, provided that the Department may permit an emergency travel lane width of less than 15 feet upon consultation with the New York City Fire Department.
- There shall be a minimum distance of three (3) feet between the perimeters of adjacent roadway cafes. A roadway cafe adjacent to another roadway cafe shall maintain a minimum of a one foot, 6-inch (1'6") distance from the boundary of the extension of the perimeter of the ground floor restaurant. Such minimum distance shall remain unobstructed for emergency access and shall not be used for storage, including containers to store trash.



# Siting Requirements (Continued)

- Street Trees - No element of a roadway cafe shall encroach upon or attach to a street tree bed or canopy of a street tree. A street tree shall not be cut, pruned, or removed except as authorized pursuant to a Tree Work Permit from the New York City Department of Parks and Recreation.
- The minimum distance between the perimeter of a roadway cafe and a crosswalk shall be a minimum of 20 feet, where the nearest vehicular travel lane parallel to a roadway cafe provides for the direction of traffic to be approaching the intersection; and 8 feet where the nearest vehicular travel lane parallel to a roadway cafe provides for the direction of traffic to be exiting the intersection.
- The minimum distance between the perimeter of a roadway cafe and the curb line of a street intersecting with the street on which the roadway cafe is located shall be 20 feet.
- Roadway cafes located in a floating parking lane shall be limited to the width of the legal parking area and shall not be located, in whole or in part, within a bicycle lane. Roadway cafes may abut but not cover a thermoplastic markings utilized as a bicycle lane buffer.
- Any element of a roadway cafe, including decorative plantings, located within 50 feet of any regulatory or warning signs, shall be no greater than 46 inches in height.
- A roadway cafe installed over utility coverings or hardware must be easily moveable so as to not restrict access to such coverings or hardware, provided that no such covering or hardware may be installed over manholes, transformer vaults, grates, or at-grade ventilator grates.

# Siting Requirements (Continued)

- The furnishing of the interior of a roadway cafe shall consist solely of lightweight easily moveable tables, chairs, and decorative accessories.
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- If utilized, vertical screenings, coverings, and umbrellas shall be easily removable, shall not extend over the perimeter of the roadway cafe, and shall comply with the following:
  - A covering or umbrella must be no lower than 7 feet and extend no higher than 10 feet from the base or floor of the roadway cafe.
  - Vertical screening is permitted between the barrier and 6 feet above the base or floor of the roadway cafe. Such vertical screening shall only be located on the roadway-facing side of such cafe, shall maintain clear visibility and shall not be opaque (e.g., plantings, lattice panels, clear plexiglass, etc.).
  - If utilized, vertical screenings, coverings, and umbrellas shall be comprised of fire-resistant grade materials.
  - (D) Any vertical elements utilized for the purposes of providing support for a covering or umbrella shall not be affixed to the outside of a barrier.
- Lighting shall be outdoor rated, properly secured, protected and lightweight. Wires for electrification shall be connected above-head, and may not be connected on or near the ground or within street tree beds. No such connections shall be made or attached to any electrical equipment or other property owned or controlled by the City, including street trees.

# Enforcement

- First time violators: NYCDOT Commissioner shall notify such licensee of such violation and request that action be taken to correct such violation within 30 days and shall afford such licensee an opportunity to protest the Commissioner's finding in a manner set forth in these rules.
- A Correction Action Request (CAR) may be served by mail or by e-mail on the licensee responsible for the condition which requires correction at the address or e-mail address for such person contained in the records of the Department.
- Any corrective action required by the CAR shall be performed within 30 days of the issuance of the CAR unless such issuance is protested. If the corrective action required by the CAR is not performed within 30 days of the issuance of the CAR and such issuance is not protested, NYCDOT may issue a summons for an uncorrected condition upon reinspection.
- NYCDOT Commissioner may, after providing notice of intent to suspend or revoke a license and an opportunity to be heard, suspend or revoke a license to operate a sidewalk cafe or roadway cafe and order the removal of such sidewalk cafe or roadway cafe for 3 or more violations of the same provision within a 2-year period, or for any 6 or more violations of any provision of such subchapter or these rules within a 2-year period.
- NYCDOT Commissioner may order the removal of any furniture, equipment, structure or other obstruction used in connection with the operation of an outdoor dining area on the sidewalk or in the roadway by a person that is not licensed to operate a sidewalk cafe or roadway cafe and has no other lawful right to operate an outdoor dining area on such sidewalk or in such roadway.
- NYCDOT Commissioner may order the removal of any furniture, equipment, structure or other obstruction placed on the sidewalk or roadway by a licensee where such furniture, equipment, structure or other obstruction is inconsistent with any of the requirements set forth in these rules.

# Enforcement

<u>Section</u>	<u>Description</u>	<u>Penalty (\$)</u>	<u>Default (\$)</u>
<u>5-02(a)</u>	<u>Operation of a sidewalk cafe or roadway cafe without a license and revocable consent (FIRST OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>5-02(a)</u>	<u>Operation of a sidewalk cafe or roadway cafe without a license and revocable consent (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>1,000</u>	<u>1,000</u>
<u>5-09</u>	<u>Failure to comply with operation and management requirements (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>5-09</u>	<u>Failure to comply with operation and management requirements (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>5-11</u>	<u>Failure to comply with design requirements (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>5-11</u>	<u>Failure to comply with design requirements (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>

<u>Section</u>	<u>Description</u>	<u>Penalty (\$)</u>	<u>Default (\$)</u>
<u>5-13</u>	<u>Failure to adequately maintain a temporary outdoor dining setup</u>	<u>500</u>	<u>500</u>

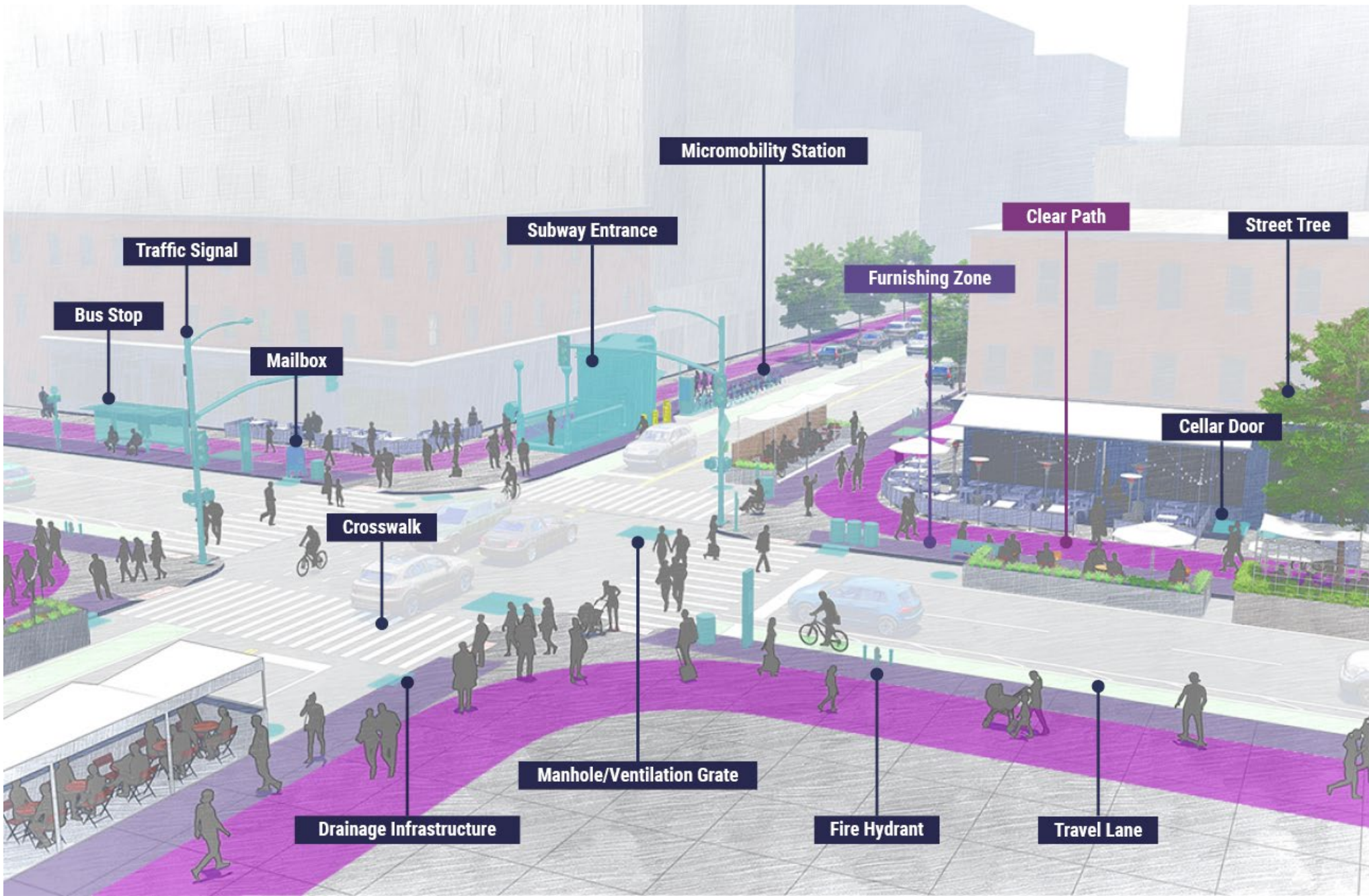
# Temporary Outdoor Dining Structures

- Temporary outdoor dining setups that do not comply relating to design requirements for sidewalk cafes and roadway cafes shall be removed by the earlier of November 1, 2024 or 30 days after a determination of NYCDOT to grant or deny a revocable consent for such sidewalk cafe or roadway cafe.
- Temporary outdoor dining setups shall not block or obstruct any of the following sidewalk and roadway features:
  - a bus lane or bus stop;
  - a bicycle lane;
  - a carshare or bikeshare station;
  - a taxi stand; or
  - a catch basin, utility cover, sewer, rainwater drainage or flow.
- Temporary outdoor dining setups shall not be located in any of the following designated zones on a roadway:
  - No Stopping Anytime;
  - No Standing Anytime;
  - No Stopping during specific hours; or
  - No Standing during specific hours.
  - Temporary outdoor dining setups shall be located at least fifteen (15) feet from a fire hydrant and at least eight (8) feet from a crosswalk.
  - Temporary outdoor dining setups

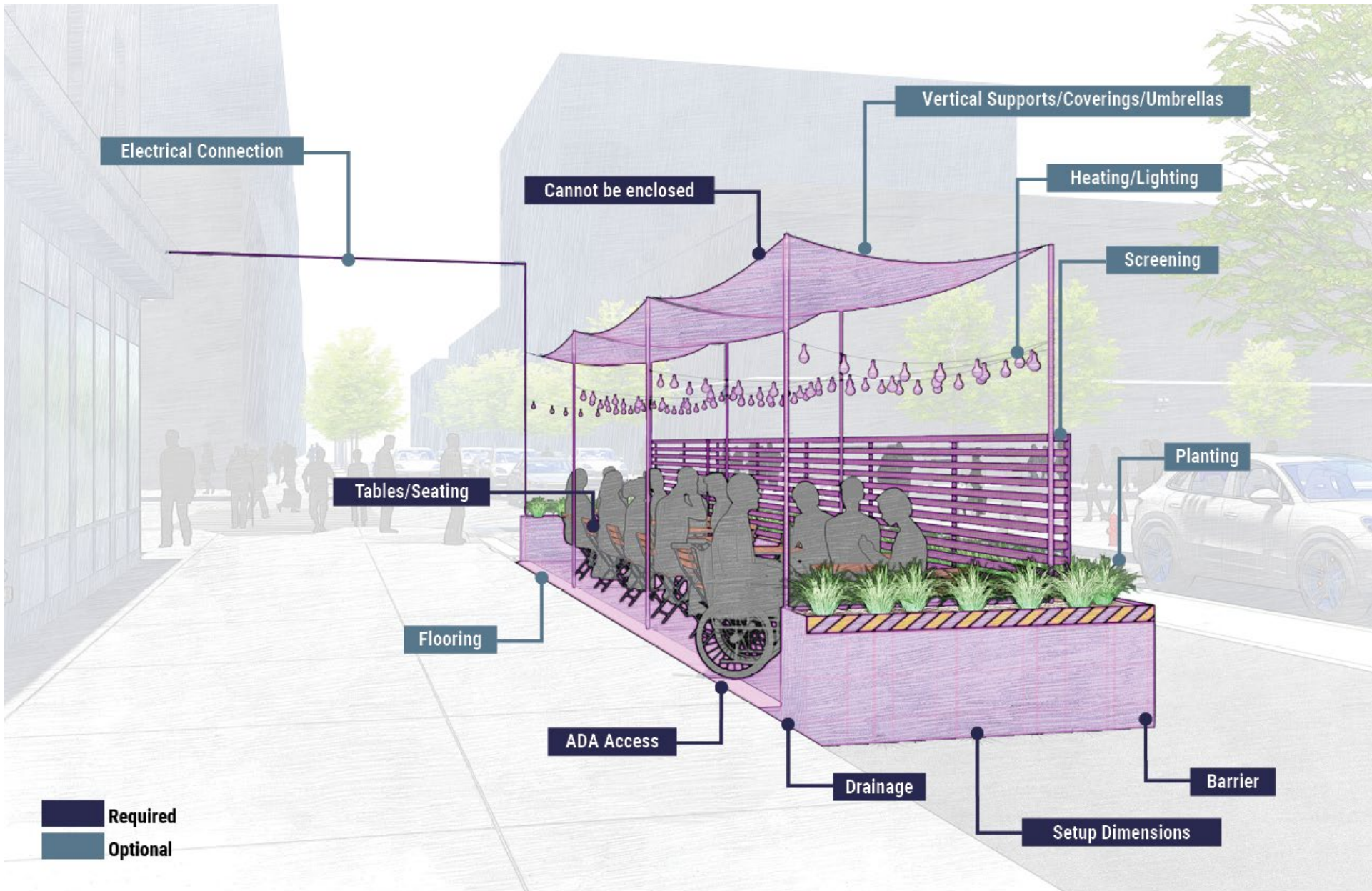
# Temporary Outdoor Dining Structures – Roadway Barriers

- Roadway Barriers shall be maintained on all sides of a temporary outdoor dining setup located on the roadway, except the side abutting the sidewalk.
- All barriers must be completely filled with material (e.g., water, sand, etc.). Water-filled barriers are strongly recommended.
- Barriers shall be between thirty (30) inches and thirty-six (36) inches in height, not including the height of any plantings above such barrier. Barriers shall be at least eighteen (18) inches in width.
- A reflective strip shall be located on each barrier, along the entire length of the outward-facing side of such barrier.

# Diagram of Proposed Rules for Sidewalk and Roadway Setup Siting



# Diagram of Proposed Rules for Roadway Setup Materials





# Diagram of Proposed Rules for Sidewalk Setup Materials

