

New York City Department of Consumer Affairs

Notice of Adoption

Notice of Adoption to amend rules relating to stoop line stands.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of Consumer Affairs by Sections 1043 and 2203(f) of the New York City Charter, and Sections 20-104(b) and 20-233 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department amends Section 2-70.2 of Chapter 2 of Title 6 of the Rules of the City of New York.

This rule was proposed and published on May 13, 2020. A public hearing was held on June 12, 2020. The Department received no comments regarding the proposed rule.

Statement of Basis and Purpose of Rule

A Stoop Line Stand license is required when an existing business sells fruits, vegetables, soft drinks, flowers, confectionery, or ice cream from a stand outside of and directly adjacent to its existing retail establishment. The Department of Consumer Affairs (“DCA” or “Department”) is amending the rules governing stoop line stands. These amendments make it easier to understand how a business can comply with the rules.

Specifically, the amendments:

- Clarify how stoop line stands must be constructed. The current language, which uses both “fence” and “partition,” has created confusion for businesses and at administrative hearings. The new rule uses only the term “partition.” In addition, the new rule uses language that is easier to understand and better reflects the construction of commonly used stands.
- Clarify that stoop line stands may not contain partitions extending to the roof or awning above the stand and that all items must be displayed on a valid stand. These changes provide better notice to businesses about stoop line stand obligations.
- Make explicit that a stoop line stand may not be used for preparation of any articles sold at the stand, including the packaging of fruit salad or the blending of smoothies or juices.
- Require that a stoop line stand license be held by the same entity that appears on the certificate of authority for the adjacent store, as required by the Administrative Code. This new subdivision allows the Department to ensure that stoop line stands are owned and operated by the adjacent store.
- Change “sidewalk stands” to “stoop line stands” for uniformity with the Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Rule Amendment

Section 1. Part 2 of subchapter G of chapter 2 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-70.2 Physical Characteristics, Requirements and Prohibitions.

(a) Every [licensed] stoop line stand [shall be enclosed at both ends and in front by a fence or partition] must be constructed of wood or some other rigid material and have a lip or barrier on both ends and in front to prevent spillage. A stoop line stand must not be enclosed by any partition that extends to the roof or awning above the stand [, and no box, barrel or any other obstruction shall at any time be maintained outside such enclosure]. No items may be kept in the space allotted for a stoop line stand unless such items are kept on a stoop line stand. The outside surface of [such enclosure] a stoop line stand [shall at all times] must be kept smooth and free and clear of all projections which might tend to damage the clothing of passing pedestrians or which might cause bodily injury to such pedestrians. No items may be kept on the sidewalk outside of a stoop line stand.

(b) On all [streets where a distance of four (4) feet outward from the building line exceeds more than one-third the entire width of the sidewalk] sidewalks where the width is twelve feet or less, no [sidewalk] stoop line stand [licensed by the Department of Consumer Affairs] shall extend outward from the building line to a point beyond one-third the width of the sidewalk.

(c) A [sidewalk] stoop line stand license application may be denied [where a showing is made that] if the Department shows that pedestrian traffic movement or public safety or convenience would be significantly impeded by the presence of the stand or that the area is not zoned for retail commercial uses.

(d) A [sidewalk] stoop line stand which uses ice or water in its display of food or flowers [shall] must be constructed and maintained in a fashion such that ice or water does not escape from the stand to the sidewalk. The sidewalk adjacent to the stand [shall] must at all times be kept free of such ice or water.

(e) [Occupants of stores who are licensed to maintain stoop line stands in front of such stores and their employees or agents shall only accept payment inside of such stores for merchandise sold or displayed at such stoop line stands] Payment for merchandise sold or displayed at a stoop line stand may only be accepted inside of the store adjacent to the stoop line stand.

(f) A stoop line stand licensee and his or her employees or agents [shall] may not use such stoop line stand or the sidewalk adjacent thereto [to wash, trim, bunch or otherwise prepare any fruit, vegetables, flowers or other] for the preparation of any articles sold or displayed at such stoop line stand, including, but not limited to, the washing, trimming, or bunching of fruit, vegetables, or flowers; the packaging of fruit salad; or the blending of smoothies or juices.

(g) A licensee shall not display or offer for sale on its stoop line stand any item that is not specifically [enumerated] listed as an item that may be sold or displayed on a stoop line stand in § 20-233(b) of Chapter 2 of Title 20 of the Administrative Code of the City of New York.

(h) A stoop line stand license must be held by the same entity listed on the certificate of authority for the store located behind the stoop line stand. If the store located behind the stoop line stand does not hold a certificate of authority, a stoop line stand license must be held by the same entity operating the store located behind such stand.