

New York City Department of Consumer Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Consumer Affairs (“DCA” or “Department”) is proposing amendments to the rules governing stoop line stands. These proposed amendments would clarify the construction requirements for a stoop line stand and clarify the activities that are prohibited on a stoop line stand, among other things.

When and where is the hearing? DCA will hold a public hearing on the proposed rule via teleconference. The public hearing will take place at 10:00 AM on June 12, 2020. To participate in the public hearing via teleconference, please dial **1-855-282-6330**, and use the access code **478 211 433** or follow the online link: <https://dcany.webex.com/dcany/j.php?MTID=m749ddf7f12e83d020e9bc530465c1dfc>

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DCA through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to Rulecomments@dca.nyc.gov.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 436-0345. You can also sign up on the teleconference before the hearing begins at 10:00 AM on June 12, 2020. You can speak for up to three minutes.
 - **To speak or listen at the public hearing via teleconference, please dial 1-855-282-6330, and use the access code 479 211 433** or follow the online link: <https://dcany.webex.com/dcany/j.php?MTID=m749ddf7f12e83d020e9bc530465c1dfc>

Is there a deadline to submit comments? Yes. You must submit any comments to the proposed rule on or before June 12, 2020.

What if I need assistance to participate in the hearing? You must tell DCA’s External Affairs division if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may tell us by telephone at (212) 436-0345. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by June 9, 2020.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, all comments received by DCA on the proposed rule will be made available to the public online at <http://www1.nyc.gov/site/dca/about/public-hearings-comments.page>.

What authorizes DCA to make this rule? 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 authorize the Department of Consumer Affairs to make this proposed rule. This proposed rule was not included in the Department of Consumer Affairs’ regulatory agenda for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find DCA’s rules? The Department’s rules are in Title 6 of the Rules of the City of New York.

What laws govern the rulemaking process? DCA must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed 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 proposing amendments to the rules governing stoop line stands. These amendments will make it easier to understand how a business can comply with the rules.

Specifically, the proposed rules:

- 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 proposed rule would use only the term “partition.” In addition, the proposed amendment would use 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 will 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 proposed subdivision will allow 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.

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 authorize the Department of Consumer Affairs to make these proposed rules.

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.

Proposed Rule Amendments

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,] On all 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] must 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 adjacent to the stoop line stand. If the store adjacent to 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 adjacent store.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Stoop Line Stands

REFERENCE NUMBER: 2020 RG 034

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose;
and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: April 16, 2020

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Governing Stoop Line Stands

REFERENCE NUMBER: DCA-108

RULEMAKING AGENCY: Department of Consumer Affairs

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) No cure period/mechanism is provided because the authorizing statute for the rule does not provide a cure period. However, respondents are afforded notice and an opportunity to be heard with respect to all notices of violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

April 16, 2020
Date