

Thank you for the opportunity to provide comments regarding NYCDOT's rules governing the new permanent outdoor dining program.

Tri-State Transportation Campaign (TSTC) is a non-profit organization that conducts research, planning and education make our region's mobility infrastructure more accessible, effective, and sustainable. For the past 30 years TSTC has promoted walkable city, bikable trails, and efficient bus and rail routes that serve the everyday person and help us address our health and climate crisis precipitated by antiquated planning practices.

In 2021, TSTC has began the Alfresco NYC coalition in partnership with Design Trust for Public Space and Regional Plan Association. We saw the transformation and rediscovery of our streets as outdoor spaces for recreation, socialization, and connection for local communities struggling during a global pandemic. Born out of necessity, outdoor dining was a reprieve for many New Yorkers and a practice that we believe added value beyond its temporary program. Therefore, Alfresco NYC strongly supports a permanent program in light of the benefits outdoor dining has had to communities and small businesses. We are also keenly aware that the program was not perfect, it had flaws which our coalition sought to allemerate by doing what we do best, listening to the concerns of stakeholders, talking to experts in planning, design, and shopowners, and formulating that knowledge into something that can help our city improve the program.

In collaboration with the NYC Hospitality Alliance, AIA New York, Open Plans, and hundreds of other stakeholders representing the restaurant industry, advocacy groups, private and non-profit sectors, and residents, we identified a number of recommendations to ensure the permanent program builds on the most important and successful parts of the temporary program.

We are pleased to see the rule-making process move forward and that it reflects many of our collective suggestions. TSTC offers a few more recommendations below as the rule making advances.

1. **5-02(c) - Landmarks Preservation Commission Review** - We have concerns that an oversized role of LPC can styme change and draw out approval processes. We believe that the LPC's role should be scaled back to allow a smoother, tenable approval process for small businesses in the historic districts.
2. **5-04(c)(5) - Pest Control Plan** - The rules require petitioners to enter into contract with a licensed pest control professional. We believe the rules should emphasize that pest control plans and professionals should implement environmentally friendly practices that keep food safety and public health in mind especially related to chemical and pesticide usage.
3. **5-05(b) Community Board Involvement.** We strongly recommend scaling back the proposed community board approval process for a faster and more efficient approval process, especially in the initial bottleneck of applications waiting for review. The nature of a seasonal program would require a throughput of review that Community Boards struggled with during the temporary program.
4. **5-06(d) - Sidewalk Widening Approval Process** - We understand that sidewalk widenings have been implemented as mitigation for new, more dense development in special districts around the city to ensure proper pedestrian flow. The rules governing outdoor dining on a sidewalk widening is inconreuent with these mitigations. A public space provided to a community as mitigation for new development should be retained or

an alternative developed with the engagement with the community. This section has raised concerns among outdoor dining supporters and needs more clarification.

5. **5-11 - Design Requirements** - We would like to see that the NYCDOT Streets Plan provides a framework for decision making around the outdoor dining program (sidewalk and roadway) that is rooted in data and a full understanding of the various uses of our streets and sidewalks including freight, pedestrian, micromobility, etc. In terms of design of the structure, TSTC supports the AIA recommendations to make the structures attractive and sustainable.
6. **5-11(a)(1)(i) - Clear Path** - We understand that certain parts of the sidewalk, especially subway grates are not as safe or traversable as pavement, a sidewalk cafe approval should take into consideration the reality of circumstances in the proximity of the cafe area. The proposed rules should include language articulating that clear path lanes be fully accessible. Additionally, where clear path requirements cannot be met due to a concentration of other types of “clutter” on the sidewalk, NYCDOT should consider options to relocate sidewalk clutter into the street if feasible.
7. **Education and Technical Support** - Applicants and contractors may need education and technical support in order to comply with the new program guidelines. We believe that the city must provide assistance to ensure small businesses continue to engage in the program. Components of this support should include:
 - Strategies to **adapt temporary structures** to comply with the rules governing the permanent program. This is critical to reduce costs to small businesses and reduce the waste we would generate citywide if businesses had to tear all material down and start over.
 - **Avoid a punitive approach** and collaborate with businesses and contractors when they receive their first violation to help educate them to build understanding of the program.
 - Provide a platform to help **exchange knowledge and best practices** among businesses and strategies to create good relationships with neighbors and communities.
 - Work with program participants to ensure they develop an understanding of the challenges with **sharing the right-of-way** and the need for safety precautions.
8. **Crosswalks** - Daylighting is critical for safety and we agree that outdoor dining structures should not be allowed within 20 feet of a crosswalk. However, as with daylighting generally, if there is no impediment in place these spaces are almost certain to become de facto parking spaces. We urge DOT to implement hardening at all daylight spots next to outdoor dining structures as a matter of visibility and street safety.
9. **Floating Parking Lanes** - The program rules define how floating parking lanes will be incorporated into the outdoor dining program. Where possible, NYCDOT should consider re-routing bike lanes to the outside of outdoor dining areas to maintain safety for bikers and restaurant workers and customers. If not feasible, cyclists should have signaling or signage so they slow down or stop and observe the activity of the restaurant before moving on.
10. **Track the program’s success and report publicly** - NYCDOT should utilize data collected from the program to track success, and better understand how the outdoor dining program impacts equity across the city, especially for small businesses and

communities. This assessment could go beyond just metrics related to the program and look at potential unintended consequences. For example, NYCDOT should ensure that landlords are not escalating rents or taking any retaliatory actions as a result of the program. The impact of outdoor dining on implementation of other parts of the Streets Plan could help better coordinate various uses in the right-of-way. This reporting should adapt to changing circumstances and understanding to continuously work on improving the program.

Our intention with this comment is to help create a lasting program that all New Yorkers can be proud of. We hope these ideas will help you as the Department works to finalize the rules, and we look forward to supporting a successful implementation of the Dining Out NYC.

Thank you for your time and consideration.

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