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NYC Department of Transportation
Office of Cityscape and Franchises
55 Water Street, 9th Floor
New York, New York 10041

Re: DOT Proposed Rule-Outdoor Dining

Dear Sir or Madame,

I am writing to express my concerns regarding the proposed rule establishing the requirements relating to DOT's Dining Out NYC program, including the granting of licenses and revocable consents for sidewalk and roadway cafes, operational requirements and siting and design criteria for sidewalk and roadway seating areas, and enforcement procedures.

I am writing this at 10:15pm as I hear music blaring from the sidewalk where I have resided since 1998 and been a property owner since 1989. It's like a PTSD flashback from the heights of the early COVID years with Emergency Dining impacting and disrupting my quality of life as a three prong city taxpayer: income, real estate and sales.

So, let's start with my concern about **NOISE**.

The hours you are allowing for outdoor noise is unreasonably long. What may be acceptable for Bourbon or Duval Streets is not acceptable in residential areas. Disruptive noise should end at 11am and not later. While you say no amplified outdoor sound, you do not restrict indoor amplified sound which vibrates through windows, adjacent walls and out open doors. Indoor amplified sound from music or televisions should be restricted not only for the peace of residential neighbors but for the hearing health benefit of the bar and restaurants patrons. Restaurants should close their doors and windows to contain noise.

You need to clarify Design, Siting and Roadway Rules.

- No exceptions or waivers to the 15 foot Emergency Lane on roadways.
- Your rules must state that all roadway cafe structures must be removed from December through March so that our streets can be swept at least 4 months a year and necessary roadwork done.
- Restaurants are not to store their tables, chairs, setups in the streets in the off-season.

- Calling structures “open” is too vague. The rules must explicitly prohibit all roofs and walls. Structures must be readily removable in the event of an emergency. If a forklift or backhoe is required for removal, it’s not a removable structure.

Restore the Pedestrian Right of Way

- Although the proposed rules say that a sidewalk cafe cannot cover a sidewalk subway grate, it does not say that a sidewalk grate cannot be included in the measurement of a pedestrian clear path. This rule forces pedestrians – some with walkers, canes or pushing strollers – to walk on the subway grate. The porous, open, often wet and slippery or damaged grate is not a “clear” path.
- Bring back the 3-foot service aisle for wait staff serving customers in the sidewalk cafe. That service aisle was the sensible standard in the pre-pandemic sidewalk café program, mandating that the restaurant not use the public pedestrian clear path for private business purposes. Make the clear path truly clear for the use of pedestrians only.

No Outdoor Heating. We’re in a Climate Emergency!

Eliminate the extraordinary powers afforded to the DOT Commissioner. It’s an invitation for headlines and not the kind any administration wants.

Ensure Community Input

- Under Local Law 121, community boards review periods are cut back to 40 days — and input on roadway dining will only be considered “to the extent practicable” as determined by the DOT. At a minimum, the DOT should specify that outdoor dining applications received in late May through August will only be considered in September to avoid a period when community boards are often not in session — and therefore unable to solicit community comment. **These rules are useless without a real process for community input.**

Ensure Agency Accountability

- The proposed rules provide multiple ways for the restaurant owner to appeal licensing, revocable consent, and violation decisions by the DOT – frequently allowing for long delays in the owner’s favor. But there is no corresponding mechanism provided for how neighboring businesses and residents can respond to restaurant rules violations. 311 is where citizen reports of violations go to die. **Give the neighboring businesses and residents a dedicated NYC-DOT portal where outdoor dining problems can be reported – with quick responses from the agency.**

Ensure Transparency

- Transparency should be the basis of all NYC programs. Make the portal data on outdoor applications, licenses, revocable consents, OATH violations, fines, and complaints received from the public available through one portal. **We need to know in measurable data how this program is affecting our communities.**

In closing, there has been a very considerable amount of time and energy devoted, expended and considered to the threshold we face of changing the temporary COVID emergency benefits to restaurants and bars soon into something permanent. As the street noise continues at 11:00pm as I end

this letter, I urge you to remember and do not lose sight of the fact that residents are entitled to minimum disturbances and maximum quality of their lives.

Sincerely,
Tony Allicino

cc
25 Leroy Street Coop Corp
Cue Up NY
West Village Residents
Councilmember Erik Bottcher, Council District 3