

New York City Department of Consumer and Worker Protection

Notice of Adoption

Notice of Adoption to repeal Department of Consumer and Worker Protection (“DCWP” or “Department”) rules related to sidewalk cafes in order to implement Local Law 121 of 2023, which repealed Subchapter 6 of Chapter 2 of Title 20 of the Administrative Code of the City of New York, relating to sidewalk cafes.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer and Worker Protection by Sections 1043 and 2203(f) of the New York City Charter and Local Law 121 for the year 2023, and in accordance with the requirements of such Section 1043, that the Department repeals portions of Chapter 1 of Title 6 of the Rules of the City of New York, portions of the sidewalk cafe penalty schedule, and certain citations involving sidewalk cafes in other penalty schedules.

This rule was proposed and published on February 14, 2024. No public hearing was held because the Department determined that a hearing would serve no public purpose. The Department received no public comments.

Statement of Basis and Purpose of Rule

The Department of Consumer and Worker Protection repeals: portions of Chapter 1 of Title 6 of the Rules of the city of New York (“RCNY”) related to the licensing of sidewalk cafes; the sidewalk cafe penalty schedule; and certain citations involving sidewalk cafes in other penalty schedules, to facilitate Local Law 121 for the year 2023, which enacted the City’s new Dine Out NYC outdoor dining program. Subchapter F of Chapter 2 of the RCNY, relating to DCWP’s granting of revocable consents and licenses for the operation of sidewalk cafes, was repealed by rules promulgated by the Department of Transportation (“DOT”) pursuant to Local Law 121, implementing the new licenses and revocable consents required for Dine Out NYC.

Local Law 121 created a new outdoor dining program in the City that includes sidewalk cafes. Pursuant to that Law, sidewalk cafes are now regulated by DOT. This amendment removes citations and penalties from Title 6 of the RCNY that are no longer relevant.

Sections 1043 and 2203(f) of the New York City Charter authorize the Department of Consumer and Worker Protection to make this rule.

Rule Amendment

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.

Section 1. Subdivisions (d) and (e) of section 1-02 of chapter 1 of Title 6 of the Rules of the City of New York, relating to the expiration of revocable consents and licenses for unenclosed sidewalk cafes and for enclosed sidewalk cafes, respectively, are REPEALED.

§ 2. Section 1-03 of chapter 1 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 1-03 Display of License Sign.

(a) Every licensee[, except for those licensed to operate a sidewalk cafe as described in subdivision b of this section,] must post conspicuously at [his or her] the licensee’s place of business the license sign provided by the Department that includes the license information, instructions on contacting the Department to file a complaint, and other important information for consumers as the Department deems appropriate. A licensee may post a copy of such sign at the licensee’s place of business only if the original is available at such place of business for inspection by any person. A licensee having no fixed place of business must exhibit [his or her] their license upon the request of any person.

(b) [Every licensee licensed to operate a sidewalk cafe pursuant to § 20-224 of Subchapter 6 of Chapter 2 of Title 20 of the Administrative Code of the City of New York is required to post a sign provided by the Department that

includes the license information, instructions on contacting the Department to file a complaint, the maximum number of tables and chairs permitted for the sidewalk cafe, and any other pertinent information for consumers as the Department deems appropriate, at a location from which it must be visible to persons on that portion of the sidewalk adjacent to such licensee's sidewalk cafe. A licensee may post a copy of such sign at a location as described in this subdivision only if the original is available at the licensee's place of business for inspection by any person] Reserved.

§ 3. The second and fourth rows, labelled "6 RCNY § 1-03(b)" and "6 RCNY §§ 2-41 through 2-59", respectively, of the table contained in paragraph 5 of subdivision b of section 6-03 of chapter 6 of Title 6 of the Rules of the City of New York, related to the violations of sidewalk cafe regulations for which an opportunity to cure a first-time violation is available, are REPEALED.

§ 4. The eleventh row, labeled "6 RCNY § 1-03(b)", of the penalty schedule set forth in section 6-11 of chapter 6 of Title 6 of the Rules of the City of New York, relating to penalties for violations of 6 RCNY § 1-03(b), is REPEALED.

§ 5. Section 6-15 of chapter 6 of Title 6 of the Rules of the City of New York, relating to penalties regarding sidewalk cafes, is REPEALED.