



## New York City Department of Health and Mental Hygiene Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The New York City Department of Health and Mental Hygiene (“Department”) is proposing to amend Chapter 32 (*Dogs in Outdoor Dining Areas*) of Title 24 of the Rules of the City of New York (“RCNY”) to align with changes to the definition of “sidewalk cafe” made by Local Law 121 of 2023.

**When and where is the hearing?** The Department will hold a public hearing on the proposed rules. The public hearing will take place from 10 a.m. to 11 a.m. on July 18<sup>th</sup>, 2025. The hearing will be conducted by video conference accessible via internet or telephone.

- **Internet.** To participate in the public hearing, please register at this Webex URL: <https://nycdohmh.webex.com/nycdohmh/j.php?MTID=m0f29247225aeda737f9edd7caad3caf3>  
If prompted to provide an event number or password, please enter the following:  
Event number: **2340 866 6897**  
Password: **TAcFpqK77d2 (82237757** when dialing from a phone or video system)
- **Phone:** For access, dial: (646) 992-2010, (408) 418-9388, then please enter the following:  
Access code: **234 086 66897**, Password: **TAcFpqK77d2**

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

- **Website:** You can submit comments to the Department through the NYC rules website, at <https://rules.cityofnewyork.us>
- **Email:** You can email comments to [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov)
- **Mail:** You can mail comments to the Department at:  
New York City Department of Health and Mental Hygiene  
42-09 28<sup>th</sup> Street, 14<sup>th</sup> Floor  
Long Island City, NY 11101-4132  
Attn: Svetlana Burdeynik
- **Fax:** You can fax written comments to the Department at (347) 396-6087.
- **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 the Secretary to the Department at (347) 396-6078 or (347) 396-6116. You can also sign up at the hearing before the hearing begins on July 18, 2025. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

**Is there a deadline to submit written comments?** Yes, you may submit written comments by 5 p.m. on July 18, 2025.

**What if I need assistance to participate in the hearing?** You must tell the Department if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (347) 396-6078 by July 3, 2025.

**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/>. Within a

reasonable time after the hearing, all written comments and a summary of the oral comments received by the Department will be made available on request.

**What authorizes the Department to make this rule?** Sections 389, 556 and 1043 of the New York City Charter (“Charter”) authorize the Department to make this proposed rule. Charter section 389(b) provides that “heads of mayoral agencies shall have the power to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law.” Charter section 556(c)(9) requires the Department to ensure that businesses and other activities affecting public health in the city are conducted in a manner consistent with the public interest. Charter section 1043(a) provides that each “agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law.”

**Where can I find the Department’s rules?** The Department’s rules are in Title 24 of the RCNY.

**What laws govern the rulemaking process?** The Department must meet the requirements of Section 1043 of the Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

### **Statement of Basis and Purpose of Proposed Rule**

Local Law 121 of 2023 streamlined the cafe licensing process and allowed year-round sidewalk cafe dining and seasonal roadway cafe dining. The law amended provisions of the Administrative Code of the City of New York (“Admin. Code”) relating to sidewalk cafe licensing by, among other things, repealing the sidewalk cafe licensing provisions in Subchapter 6 of Chapter 2 of Title 20 and adding new provisions for the licensing of sidewalk cafes and roadway cafes in Title 19, including definitions of “sidewalk cafe”, “enclosed sidewalk cafe” and “roadway cafe” in Admin. Code Section 19-101.

Chapter 32 of Title 24 of the RCNY, which sets forth rules relating to dogs allowed in outdoor dining areas of food service establishments (“FSE”), refers to definitions of enclosed and unenclosed sidewalk cafes in Title 20 of the Admin. Code. Those definitions have been repealed by Local Law 121. Accordingly, the Department is now proposing to amend the definition of “outdoor dining area” in Chapter 32 to omit references to the repealed provisions, amend the reference to sidewalk cafe and add a reference to roadway cafe as defined in Admin. Code Section 19-101, and make other changes consistent with the definition of “outdoor dining area” in Chapter 10 of Title 24 of the RCNY.

In addition, the Department proposes to require FSEs with outdoor dining areas that allow dogs to maintain 36 inches of aisle space between tables, unobstructed by dogs for the safety of FSE staff, patrons, and their dogs. In particular, the Department is proposing the amendment to maintain the requirement for FSEs that allow dogs in order to limit potential dog-to-dog altercations. This requirement was formerly included as a physical requirement for sidewalk cafes in subchapter F of Chapter 2 of Title 6 of the RCNY, which has been repealed. The new rules addressing the physical requirements for sidewalk cafes and roadway cafes are located in Chapter 5 of Title 34 of

the RCNY, and do not contain a requirement for a 36-inch service aisle. This requirement therefore needs to be relocated to the rules of the Department.

### **Statutory Authority**

The authority for these rules is found in the New York City Charter §§ 389, 556, and 1043.

The proposed amendments are as follows:

Underlined language is new.

Language in [brackets] is to be deleted.

Ellipses (\*\*\*) indicate unamended text.

Section 1. Subdivision (e) of section 32-01 of Title 24 of the Rules of the City of New York is amended to read as follows:

(e) *Outdoor dining area* means an area operated and controlled by a food service establishment that is located outdoors and is used by patrons of the establishment [to dine] for the consumption or service of food and drink. Such areas include, but are not limited to, (i) a licensed [unenclosed] sidewalk café as defined in [the §20-223(c)] § 19-101 of the Administrative Code of the City of New York (Administrative Code) or successor provision, [and] (ii) a licensed roadway cafe as defined in § 19-101 of the Administrative Code, and (iii) an outdoor dining area not located on a sidewalk that is accessed directly from the street or through a passage of the establishment, if such passage is completely separated from any dining, food preparation, [or] food storage, equipment or utensil storage areas, or ware washing areas of the establishment. An enclosed sidewalk café, as defined in [§20-223(b)] § 19-101 of the Administrative Code, is not an outdoor dining area.

§ 2. Paragraph (4) of subdivision (b) of section 32-02 of Title 24 of the Rules of the City of New York is amended to read as follows:

(4) *Aisle space required*. [Dogs may not obstruct the 36-inch] A permittee that chooses to allow dogs other than service dogs in an outdoor dining area pursuant to subdivision (a) of this section must provide an aisle space of no less than 36 inches between tables [in unenclosed sidewalk cafés, as required by 6 RCNY § 2-55(a), or successor provision]. Dogs must not obstruct such aisle space.

**NEW YORK CITY MAYOR’S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

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

**RULE TITLE: Amendment of Rules Relating to Outdoor Dining Areas**

**REFERENCE NUMBER: DOHMH-153**

**RULEMAKING AGENCY: Department of Health and Mental Hygiene**

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) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

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

May 15, 2025  
Date

**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 Relating to Outdoor Dining Areas

**REFERENCE NUMBER:** 2024 RG 136

**RULEMAKING AGENCY:** Department of Health and Mental Hygiene

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  
Senior Counsel

Date: May 15, 2025