Manhattan Community Board Five

Bradley Sherburne, Chair

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Marisa Maack, District Manager

November 6, 2026

Mike Flynn
Commissioner
New York City Department of Transportation
55 Water Street
New York, NY 10041

Re: Public comment to the New York City Department of Transportation regarding proposed amendments to the Dining Out NYC rules governing sidewalk and roadway cafes.

Dear Commissioner Flynn,

At the regularly scheduled monthly Community Board Five Executive Committee meeting on Monday, November 2nd, 2026, the following resolution passed with a vote of 14 in favor; 0 opposed; 0 abstaining:

WHEREAS, The New York City Department of Transportation has proposed regulatory amendments to the Dining Out NYC program rules governing the design, winterization, operation, eligibility, accessibility, and enforcement of sidewalk and roadway cafés; and

WHEREAS, The proposed amendments introduce a framework allowing roadway cafés to operate on a year-round basis, establish an 11:00 p.m. daily outdoor closing hour, set standards for winter coverings, enclosures, and material transparency, restrict café setups strictly to customer food and beverage service, refine pedestrian clear-path and siting geometries, and expand enforceable violations and penalties; and

WHEREAS, Manhattan Community Board Five recognizes the cultural and economic importance of outdoor dining to the vitality of New York City and our local business community, while maintaining that the primary public purpose of streets and sidewalks must remain safe, unobstructed pedestrian circulation and civic accessibility; and

WHEREAS, Community District Five contains some of the highest pedestrian volumes and most heavily congested sidewalks in the city, where sidewalk café installations and enclosed structures can constrain foot traffic; and

WHEREAS, Transparent and visible materials for café enclosures are vital to preserving sightlines, visual permeability, and public safety, preventing bulky opaque sheds from degrading the historic streetscape or creating concealed alcoves; and

WHEREAS, Equal and dignified access is an essential requirement, necessitating rigorous adherence to Americans with Disabilities Act (ADA) standards across all outdoor dining setups, including seamless transitions, accessible routes, and barrier-free seating; and

WHEREAS, Significant concerns exist regarding program equity and affordability, as rising administrative fees, design compliance costs, and winterization expenses risk pricing out independent, small, and medium-sized culinary businesses, thereby favoring larger corporate entities that can occupy disproportionate shares of the public realm; and

WHEREAS, This resolution will be transmitted as formal public comment to NYC DOT; therefore, be it

RESOLVED, Manhattan Community Board Five expresses general support for the proposed amendments to the Dining Out NYC rules, while strongly urging NYC DOT to incorporate the following crucial protections and modifications prior to final rule promulgation:

1. Pedestrian Clear Paths & Sidewalk Circulation: Rigorously protect sidewalk circulation by preserving the contextual clear path standards of Dining Out NYC in high density corridors, prioritizing year-round roadway dining over expansive year-round sidewalk structures, and ensuring that sidewalk dining does not compromise pedestrian flow or crowd safety.
2. Small Business Affordability & Equity: Implement reduced fees, fee relief, or phased financial assistance for small and independent local businesses to ensure equal and equitable access to year-round dining opportunities.
3. Transparent Enclosures & Streetscape Design: Mandate high standards of transparency and visibility for all winterization coverings and enclosure elements to eliminate visual blight, maintain clear public sightlines, and preserve open streetscapes.
4. Universal ADA Compliance: Strictly enforce comprehensive ADA accessibility standards for all sidewalk and roadway setups, guaranteeing unobstructed routes and fully accessible dining accommodation.
5. Robust Enforcement & Penalties: Implement proactive monitoring and support strengthened penalties and swift corrective actions for setups that encroach upon pedestrian paths, utilize dining footprints for unauthorized storage, or violate operating hours.
6. Mandatory Public Posting of Permits: Require all participating establishments to post their active Dining Out NYC permits and approved setup plans in a visible location facing the street, improving accountability by empowering inspectors, agency personnel, and community members to readily verify compliance and streamline enforcement; and, therefore be it further

RESOLVED, Manhattan Community Board Five urges NYC DOT to ensure community boards maintain a meaningful and timely role in reviewing, receiving notice of, and providing local input on outdoor dining applications within their boundaries.

Sincerely,



Bradley Sherburne
Chair

Seth Borden
Chair, State Licenses & Permits Committee

Cc: Hon. Brad Hoylman-Sigal, Manhattan Borough President