

New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? This proposed rule would amend sections 5-01, 5-02, 5-03, 5-07, 5-09, 5-10, 5-11, and 5-12 of Chapter 5 and section 3-01 of Chapter 3 of Title 34 of the Rules of the City of New York (“34 RCNY”) to implement recently enacted local laws, clarify and update existing Dining Out NYC program requirements to align with policies and practices, and make additional amendments to improve the administration and operation of the Dining Out NYC program.

When and where is the hearing? The New York City Department of Transportation (“DOT”) will hold a public hearing on the proposed rule online. The public hearing will take place on November 9, 2026 at 10:00 am.

Join through Internet:

- To join the hearing via your browser, either click on the following URL link or copy and paste it into your browser’s address bar.

Join Zoom Meeting

<https://zoom.us/j/91864978875?pwd=efRyTYBpH1oA3dRUCycUIKMbQTCzhh.1>

Meeting ID: 918 6497 8875

Passcode: 575347

- Then follow the prompts.
- If you have low bandwidth or inconsistent Internet connection, we suggest you use the “Call-in” option for the hearing.

Join via phone only:

- To join the meeting only by phone, use the following information to connect:

Phone: 1-929-205-6099

Access code: 918 6497 8875

Password: 575347

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

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.
- **Mail.** You can mail comments to Lauren Antonelli, Executive Director, Dining Out NYC, New York City Department of Transportation, 55 Water Street, New York, NY 10041.
- **Fax.** You can fax comments to Lauren Antonelli at (212) 839-9685.

- **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 emailing rules@dot.nyc.gov by November 6, 2026 and including your name and affiliation. While you will be given an opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? The deadline for written comments is 5 p.m. on November 9, 2026.

Do you need assistance to participate in the hearing? You must tell the DOT Office of the General Counsel if you need a reasonable accommodation of a disability during the hearing. You must tell us if you need a sign language interpreter. You can tell us by e-mailing at rules@dot.nyc.gov. If you wish to receive a reasonable accommodation, you must do so by November 2, 2026.

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/>. Copies of all comments submitted online, copies of all written comments, and a recording of the hearing may be requested by emailing rules@dot.nyc.gov.

What authorizes DOT to make this rule? Section 2903(a) and Section 1043(a) of the New York City Charter (City Charter) authorizes DOT to make this proposed rule. This rule was not included in DOT’s regulatory agenda as it was not anticipated when the agenda was published.

Where can I find DOT’s rules? DOT’s rules are in Title 34 of the Rules of the City of New York.

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

Statement of Basis and Purpose of Proposed Rule

In 2024, in accordance with Local Law 121 of 2023, DOT adopted rules governing its permanent outdoor dining program, Dining Out NYC (the “DONYC Rules”). DOT began accepting applications for sidewalk and roadway cafe licenses and revocable consents under the DONYC Rules in the Spring of 2024. In 2026, the City Council enacted several laws modifying the DONYC Rules:

- Local Law 135 of 2026 (“Local Law 135”),
- Local Law 143 of 2026 (“Local Law 143”),
- Local Law 144 of 2026 (“Local Law 144”), and
- Local Law 145 of 2026 (“Local Law 145.”)

These are referred to here collectively as the “2026 Local Laws”.

Among other things, the 2026 Local Laws created a new subcategory of roadway cafe, the year-round roadway cafe, that may operate year-round and authorized DOT to promulgate rules governing the

design and operation of year-round roadway cafes, including but not limited to requirements for winterization and other standards specific to year-round operation.

The proposed rule amendments would implement the 2026 Local Laws, clarify and update existing Dining Out NYC program requirements to align with DOT policies and practices, and make additional amendments to improve the administration and operation of the Dining Out NYC program.

The proposed amendments would implement Local Law 135 by:

- establishing requirements for year-round roadway cafes, which are not subject to the seasonal operating limitations applicable to seasonal roadway cafes;
- setting forth application requirements for existing roadway cafes seeking to convert to year-round operation and for new roadway cafe applicants, which would be required to indicate whether they are seeking approval for seasonal or year-round operation; and
- establishing design requirements for vertical winterization coverings, overhead coverings, and roadway cafe barriers that are appropriate for year-round use.

These requirements are intended to facilitate year-round operation and use while maintaining visibility for roadway users and facilitating the ready removal of roadway cafe setups upon notice from DOT.

Additionally, in accordance with Local Law 135 and Local Law 143, the proposed amendments would:

- permit vertical protective coverings to be used outside of the winter months during adverse weather conditions, such as light rain; and
- during severe weather alerts provide that outdoor dining operations may be suspended upon notice from DOT.

The proposed amendments would also revise the DONYC Rules to reflect other changes established by the 2026 Local Laws, including reducing the permitted hours of operation from midnight each day to 11 p.m. and allowing annual revocable consent fees to be paid in quarterly installments.

The proposed amendments would also revise several operational requirements. They would clarify that gating mechanisms may be used to secure roadway cafes but are not permitted for sidewalk cafes, and that sidewalk and roadway cafes may not be used for storage or for purposes other than serving customers during operating hours.

The proposed amendments would also make several changes intended to clarify and modify existing sidewalk cafe siting and design requirements. For example, the proposed amendments would:

- clarify that the required pedestrian clear path is measured inclusive of the width of the curb;
- modify the clear path requirements to exclude drive rails from being counted as “obstructions” from which the required clear path must be measured, while requiring six feet of clearance from drive rails to maintain sufficient space for pedestrian passage and allow for seamless sidewalk cafe perimeters;

- to provide greater flexibility in sidewalk cafe design, permit certain sidewalk cafes consisting of a single row of tables and chairs adjacent to a building façade to operate without perimeter demarcations; and
- permit flooring in sidewalk cafes located on sidewalks with a slope or grade change of at least five percent, subject to applicable flooring requirements, to provide comfortable, accessible seating on inclined sidewalks.

For roadway cafes, the proposed amendments would:

- establish an eight-foot clearance from pedestrian ramps and revise minimum setbacks from crosswalks on the approaching-vehicle side based on roadway width, providing additional flexibility in the siting of roadway cafes while accounting for variations in roadway width;
- add the New York City Department of Sanitation to the agencies that review roadway cafe siting where the emergency travel lane is less than 15 feet wide;
- clarify the application review process for such location; and
- promulgate existing policies concerning dimensional requirements for roadway cafes on such roadways.

Finally, the proposed amendments would make changes intended to improve the administration and enforcement of the Dining Out NYC program by:

- authorizing Commissioner's orders and related notices concerning the removal of sidewalk or roadway cafes to be served by electronic mail; and
- revising the applicable penalty schedule to clarify separate violations and penalties for individual sidewalk and roadway cafe operational and design requirements by establishing 36 separate violations such as failure to maintain the required cafe clearances and failure to use compliant awnings, overhead coverings, vertical winterization coverings.

Specifically, the proposed amendments would be as follows:

- The definition of "clear path" in section 5-01 and section 5-11(a)(1)(iii)(D) would be amended to clarify that the measurement of the required clear path is inclusive of the width of the curb.
- The definition of "overhead covering" in section 5-01 would be amended to allow for overhead coverings to be attached to a building in accordance with Local Law 143.
- The definition of "roadway cafe" in section 5-01 would be amended and a new section 5-11(b)(1) would be added to move the open-air requirement for roadway cafes into a new section and to provide for exceptions for vertical winterization coverings between November 30 and March 31 and vertical protective coverings during adverse weather conditions, in accordance with Local Law 135.
- A definition of "Existing roadway cafe," "Seasonal roadway cafe," and "Year-round roadway cafe" would be added to align with the definitions set forth in Local Law 135.
- A definition of "major building entrance" would be added to section 5-01 to replace the undefined term, "primary building entrance," and provide clarity with respect to what building entrances a sidewalk cafe must maintain a certain distance from. Additionally,

section 5-11(a)(1)(iv) would be amended to replace references to “primary building entrance” with “major building entrance.”

- Definitions of “adverse weather conditions” and “severe weather alert” would be added to section 5-01 to clarify when a cafe is permitted to utilize vertical protective coverings and when a cafe is not permitted to operate their cafe due to weather.
- Definitions of “vertical screening,” “vertical protective covering,” and “vertical winterization covering” would be added to section 5-01 to clarify the new design elements permitted for sidewalk and roadway cafes, as well as the existing vertical element, vertical screening, currently permitted under the rules.
- Section 5-02(d) would be amended to require a public hearing when a licensee seeks to modify a roadway cafe from a seasonal roadway cafe to a year-round roadway cafe.
- Section 5-03(e) would be amended to establish license application fees for modifications and assignments of a license.
- Sections 5-03(a), 5-03(d) and 5-10(n) would be amended to provide that year-round roadway cafes may operate year-round in accordance with Local Law 135.
- A new section 5-03(f) would be added to provide the requirements and processes for applications for a year-round roadway cafe and the process for which existing roadway cafes may obtain an interim license for year-round operation in accordance with Local Law 135.
- A new section 5-07(d) would be added to align with Local Law 135 to provide that mayoral approval of a petition for a revocable consent is required unless the mayor has determined that separate and additional mayoral approval is not required for the petition or category of petitions.
- Sections 5-09(a) and (b) would be amended to establish separate annual revocable consent fee rates for seasonal roadway cafes and year-round roadway cafes in accordance with Local Law 135.
- A new section 5-09(d) would be added to allow sidewalk and roadway cafe licensees to pay annual revocable consent fees in quarterly installments in accordance with Local Law 145.
- Sections 5-10(a) and 5-11(a)(2)(ii) would be amended to allow for flooring in a sidewalk cafe if such cafe is located on a sidewalk with a slope or grade change of at least five percent, subject to the existing flooring requirements for roadway cafes.
- Section 5-10(b) would amend the hours of operation to reduce the permitted hours from midnight to 11 p.m. daily in accordance with Local Law 135.
- Section 5-10(d) would be amended to remove the outdated Administrative Code citation for the prohibition on smoking and use of electronic cigarettes in sidewalk and roadway cafes in accordance with Local Law 135.
- Section 5-10(k) would be amended to clarify that a gating mechanism may be utilized to secure a roadway cafe and that such gating mechanisms are not permitted for sidewalk cafes.
- Section 5-10 would be amended to require sidewalk cafes and roadway cafes to be maintained in a “service-ready” condition during operational hours, including by ensuring that cafe furnishings are arranged for customer use, the cafe remains accessible and unobstructed, the area is sanitary and free of trash and debris, and the cafe is not used for storage or unrelated purposes.
- A new section 5-10(q) would be added to require sidewalk and roadway cafe operations to cease when DOT suspends outdoor dining operations due to severe weather alerts.

- A new section 5-10(r) would be added to require sidewalk and roadway cafes to operate in compliance with their revocable consent agreements and in conformance with DOT-approved site plans.
- Sections 5-11(a)(1)(i) and 5-11(b)(1)(i) would be amended to allow sidewalk and roadway cafes to utilize readily removable vertical winterization coverings between November 30 and March 31 and vertical protective coverings during adverse weather conditions in accordance with Local Laws 135 and 143.
- Sections 5-11(a)(1)(iii)(D) and 5-11(a)(1)(iv) would be amended to provide that drive rails would not count as an “obstruction” from which clear path must be measured, which may result in an irregular sidewalk cafe perimeter, and add that a 6-foot distance from drive rails shall be maintained to provide sufficient space for pedestrian passage.
- Sections 5-11(a)(2)(i)(A) and 5-11(b)(2)(i)(B) would establish maximum height requirements for shrubbery and plantings.
- Section 5-11(a)(2)(i)(B) would be amended to exempt certain sidewalk cafes consisting of a single row of tables and chairs adjacent to a building façade from the perimeter demarcation requirement.
- Sections 5-11(a)(2)(iv) and 5-11(b)(2)(iv) would be amended for reorganization and clarity, to add design requirements for vertical winterization and protective coverings (e.g., retractable, transparent, etc.) for sidewalk and roadway cafes and to require that, during the winter months, overhead coverings be either fabricated from materials designed to resist snow and wind loads or be removed during severe weather alerts.
- Section 5-11(b)(1)(iv) would be amended to revise the minimum clearance requirements applicable to roadway cafes by establishing an eight-foot clearance from pedestrian ramps.
- Section 5-11(b)(1)(iv) would be relocated to a new section 5-11(b)(1)(xii) to add the New York City Department of Sanitation to the agencies that review emergency travel lanes less than 15 feet in width, clarify the application review process, and codify existing policies regarding dimensional requirements for roadway cafes located on roadways with emergency travel lanes less than 15 feet in width.
- Section 5-11(b)(1)(vii) would be amended to revise minimum roadway cafe setbacks from crosswalks by reducing the required setback on the approaching-vehicle side from 20 feet to 14 feet or 8 feet in certain instances depending on roadway width, and to revise how setbacks from unmarked crosswalks are measured to maintain adequate clearance from corners and pedestrian ramps.
- Section 5-11(b)(2)(i) would be amended to provide for winterization options for roadway cafe design by allowing liquid-filled barriers to facilitate the use of anti-freeze solutions, and to clarify existing processes regarding the DOT review and approval process for alternative barrier designs.
- Sections 5-11(a)(2)(iv), 5-11(b)(2)(ii), and 5-11(b)(2)(iv) would be amended to replace “easily” with “readily” to align terminology with provisions in the New York City Administrative Code.
- Section 5-12(c)(1) would be amended to add failure to timely pay the revocable consent fees three times over a 2-year period as one of the conditions under which DOT may revoke a license.
- Section 5-12(d)(3) would be amended to authorize Commissioner’s orders and related notices regarding the removal of sidewalk or roadway cafes to be served by electronic mail.

- The penalty schedule in section 3-01 would be amended to establish separate violations and penalties for individual sidewalk and roadway cafe operational and design requirements.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

Section 1. The definitions of “Clear path,” “Overhead covering” and “Roadway cafe” in section 5-01 of Chapter 5 of Title 34 Rules of the City of New York are amended, and new definitions of “Adverse weather conditions,” “Existing roadway cafe,” “Major building entrance,” “Seasonal roadway cafe,” “Severe weather alert,” “Vertical protective covering,” “Vertical screening,” “Vertical winterization covering,” and “Year-round roadway cafe” are added, in alphabetical order, to read as follows:

Adverse weather conditions. The term “adverse weather conditions” means weather conditions or forecasts that would interfere with dining outdoors, such as light rain, rain, or cold outdoor temperatures, except where the Department issues a severe weather alert.

Clear [Path] path. The term “clear path” means an unobstructed path on a sidewalk, curb, and/or sidewalk widening for pedestrian circulation.

Existing roadway cafe. The term “existing roadway cafe” means a roadway cafe operating on August 15, 2026 that has been granted a revocable consent by the Commissioner prior to such date, or a roadway cafe granted such a revocable consent after such date but for which a public hearing pursuant to section 371 of the charter for such roadway cafe to operate other than as a year-round roadway cafe is held prior to November 29, 2026.

Major building entrance. The term “major building entrance” means an entrance to a major building, as such term is defined in the New York City Building Code, that members of the public may use to enter or exit such building.

Overhead covering. The term “overhead covering” means a projection over a sidewalk cafe, other than an enclosed sidewalk cafe, or roadway cafe that is comprised of a support structure over which material is attached. Such overhead covering may provide weather protection or decoration and shall not be affixed to the building, unless such overhead covering complies with all applicable provisions of the New York City Construction Codes. Materials that may be used for an overhead covering include but are not limited to tensile fabric, retractable fabric, fabric panels, and rigid panelized sheet material (e.g., polycarbonate panels, panelized sheet metal panels, etc.).

Roadway cafe. The term “roadway cafe” means [an open air] a portion of a ground floor restaurant [containing readily removable tables, chairs, and other removable decorative items,] located in the curb

lane or parking lane of a roadway fronting the restaurant and designed and operated pursuant to sections 5-02 through 5-12 of this chapter. Any reference to a “roadway cafe” in these rules includes and refers to an “existing roadway cafe,” a “seasonal roadway cafe” and a “year-round roadway cafe.”

Seasonal roadway cafe. The term “seasonal roadway cafe” means a roadway cafe that has been granted a license and revocable consent by the Commissioner to operate between April 1 and November 29 only.

Severe weather alert. The term “severe weather alert” means a notification of a determination by the Department, in consultation with the New York City Office of Emergency Management, that due to hazardous weather conditions forecast to impact or impacting the City, operation of a sidewalk or roadway cafe may pose a risk to public safety.

Vertical Protective Covering. The term “vertical protective covering” shall mean a retractable, non-rigid, transparent covering installed vertically along the sides of a sidewalk cafe or roadway cafe that provides protection from adverse weather conditions and that complies with the design requirements set forth in Section 5-11 of these rules.

Vertical Screening. The term “vertical screening” shall mean plantings, lattice panels, clear plexiglass, or other screening installed vertically along the roadway-facing side of a roadway cafe between the barrier and six (6) feet above the base or floor of the roadway cafe, and that complies with the design requirements set forth in Section 5-11 of these rules.

Vertical winterization covering. The term “vertical winterization covering” shall mean a retractable, non-rigid, transparent covering installed vertically along the sides of a sidewalk cafe or year-round roadway cafe that provides weatherproofing and that complies with the design requirements set forth in Section 5-11 of these rules.

Year-round roadway cafe. The term “year-round roadway cafe” means a roadway cafe that has been granted a license and revocable consent by the Commissioner to operate on any day of a year, including between November 30 and March 31.

§ 2. Subdivision (d) of section 5-02 of Chapter 5 of Title 34 of the Rules of the City of New York is amended to read as follows:

(d) Modification. An application to modify a license must be submitted in accordance with section 5-03, and a petition to modify a revocable consent, with appropriate drawings, must be submitted in accordance with paragraph (2) of subdivision (c) of section 5-04 of this chapter. Such application and petition shall be reviewed pursuant to the process set forth in subdivision (c) of section 5-07 of this chapter, except that the Department shall hold a public hearing only when a licensee seeks approval (i) to increase the area of the sidewalk cafe or roadway cafe by ten (10) percent or greater, [or] (ii) to modify the location of a sidewalk cafe or roadway cafe, or (iii) to modify a roadway cafe from a seasonal roadway cafe to a year-round roadway cafe.

§ 3. Subdivisions (a), (d), and (e) of section 5-03 of Chapter 5 of Title 34 of the Rules of the City of New York are amended, and a new subdivision (f) is added to such section to read as follows:

(a) Term. The term of a license to establish and operate a sidewalk cafe, a year-round roadway cafe, or a seasonal roadway cafe granted pursuant to this chapter shall be four years. The term of an interim license granted pursuant to subdivision (e) of this section shall be one year, and may be renewed each year only during the term of a revocable consent for an existing roadway cafe.

(d) License Application Fees. There shall be separate fees, as provided in this subdivision, for the granting and renewal of a sidewalk cafe license, [and] a year-round roadway cafe license, and a seasonal roadway cafe license, for the modification of a license requiring a public hearing, and for the assignment of a license. Such fees shall be non-refundable and are set forth in the chart below. Such license and license renewal fees and fees for license modifications requiring a public hearing and license assignments shall be in addition to the amount required to be paid as compensation for a revocable consent, or renewal thereof, to establish and operate a sidewalk cafe or roadway cafe. The Department may waive the fee for an application to modify a license requiring a public hearing where the modification is necessitated by circumstances beyond the control of the licensee, including, but not limited to, a street improvement project or other governmental action.

	Sidewalk Cafe	<u>Year-Round Roadway Cafe</u>	<u>Seasonal Roadway Cafe</u>
Granting of license	\$1,050	\$1,050	\$1,050
Renewal of license	\$1,050	\$1,050	\$1,050
<u>Modification of license requiring a public hearing</u>	<u>\$630</u>	<u>\$630</u>	<u>\$630</u>
<u>Assignment of license</u>	<u>\$370</u>	<u>\$370</u>	<u>\$370</u>

(e) Interim License.

(1) The Department shall grant an interim license to an existing roadway cafe for year-round operation during the term of the revocable consent for such existing roadway cafe, where such cafe submits an application by electronic means on the Department's website. The term of such interim license shall be one year and may be renewed each year only during the term of the revocable consent granted to such existing roadway cafe. An interim license may not be renewed beyond the term of its associated existing revocable consent.

(2) The initial fee for an interim license and each renewal fee for an interim license shall be \$630 and shall be in addition to the fee paid to obtain a license for an existing roadway cafe.

(3) Upon the expiration of an interim license for year-round operation of a roadway cafe, an existing roadway cafe may only operate year-round where the Department grants a license and revocable consent to operate as a year-round roadway cafe in accordance with section 5-07 of these rules.

§ 4. Section 5-07 of Chapter 5 of Title 34 the Rules of the City of New York is amended by adding a new subdivision (d) to read as follows:

(d) **Mayoral Review.** The approval of the Department will be forwarded to the Mayor unless the petition, or the category of such petition, is one for which the Mayor has determined that separate and additional mayoral approval is not required.

§ 5. Subdivisions (a) and (b) of section 5-09 of Chapter 5 of Title 34 of the Rules of the City of New York are amended, and a new subdivision (d) is added to such section, to read as follows:

(a) A revocable consent for a sidewalk cafe [or], a year-round roadway cafe, or a seasonal roadway cafe, or a consent to operate a sidewalk cafe located on a sidewalk widening, granted pursuant to this chapter shall provide for compensation to be paid annually to the city during the continuance of the consent. Such annual compensation shall be equivalent to the product of the fee rate and the square footage of such sidewalk cafe or roadway cafe.

(b) There are 4 sectors, as described on the website of the Department. The fee rate for each sector shall be as follows:

Sector	Sidewalk Cafe Fee Rate (per square foot)	<u>Year-Round Roadway Cafe Fee Rate (per square foot)</u>	<u>Seasonal Roadway Cafe Fee Rate (per square foot)</u>
1	\$6	<u>\$6</u>	\$5
2	\$10	<u>\$10</u>	\$8
3	\$18	<u>\$18</u>	\$14
4	\$31	<u>\$31</u>	\$25

(d) A licensee may pay the annual compensation for a revocable consent for a sidewalk or roadway cafe in quarterly installments. If the Department determines, that the licensee has failed to timely pay any 2 quarterly installments during the same term of a revocable consent, such licensee, after an opportunity to be heard, shall no longer be eligible to pay in quarterly installments for the remainder of such term and shall be required to make any subsequent annual compensation payments as annual payments.

§ 6. Paragraph (3) of subdivision (a) and subdivisions (b), (d), (k), (n), and (o) of section 5-10 of Chapter 5 of Title 34 the Rules of the City of New York are amended and new subdivisions (q), (r), and (s) are added to such section to read as follows:

(a) Maintenance.

(3) If flooring is utilized as part of a sidewalk or roadway cafe, such flooring shall be lifted for cleaning on a regular basis, but not less than weekly.

(b) Hours of Operation. Sidewalk cafes, other than enclosed sidewalk cafes, and roadway cafes may operate only during the following hours and days:

Sunday, 10 a.m. to [midnight] 11 p.m.

Monday, 8 a.m. to [midnight] 11 p.m.

Tuesday, 8 a.m. to [midnight] 11 p.m.

Wednesday, 8 a.m. to [midnight] 11 p.m.

Thursday, 8 a.m. to [midnight] 11 p.m.

Friday, 8 a.m. to [midnight] 11 p.m.

Saturday, 8 a.m. to [midnight] 11 p.m.

(d) No Smoking. Smoking or using electronic cigarettes [is prohibited within sidewalk cafes and roadway cafes pursuant to subdivision (c) of section 17-503], as defined in section 17-502 of the Administrative Code, is prohibited within sidewalk and roadway cafes.

(k) Secure Cafe.

(1) During hours when a sidewalk cafe or roadway cafe is not operating, the licensee must secure all furnishing and decorative elements of such sidewalk cafe or roadway cafe, such as tables and chairs, using a cable or other locking system. Such secured furnishings or decorative elements may not impede or block access to utility infrastructure or assets (e.g., utility access covers, vent poles, control cabinets, etc.).

(2) Umbrellas and overhead coverings, if utilized, must be secured [during inclement weather, including high wind conditions or heavy snow events] or removed when the Department issues a severe weather alert.

(3) Any gating mechanism used to secure a roadway cafe shall consist only of an accordion gate with an open lattice design that maintains clear visibility into the cafe. Such gating mechanisms are not permitted for sidewalk cafes.

(n) Roadway Cafe [Operating Season] Dates of Operation.

(1) A seasonal roadway cafe shall not operate on any day from November 30 to March 31, inclusive. All barriers, furnishings and other decorative elements of a roadway cafe must be removed during such period [except as authorized pursuant to paragraph (2) of this subdivision.

(2) Notwithstanding paragraph (1) of this subdivision,] provided that a ground floor restaurant for which a revocable consent and license for a seasonal roadway cafe have been granted pursuant to this chapter may:

(i) Occupy the area of the roadway cafe beginning on a date prescribed by the Department on its website that is earlier than March 31, for the purpose of setting up the roadway cafe prior to commencement of operation of the roadway cafe, provided that such date shall be no earlier than March 24 of each year; and

(ii) Occupy the area of the roadway cafe until a date prescribed by the Department on its website that is later than November 30, for the purpose of disbanding the roadway cafe, provided that such date shall be no later than December 7 of each year.

(3) A year-round roadway cafe may operate on any day of a year, including any day between November 30 and March 31.

(o) **[Abandonment.** A sidewalk cafe or roadway cafe must be used and occupied for outdoor dining. When not used and occupied for outdoor dining for thirty (30) consecutive days or more, except in accordance with subdivision (n) of this section, they must be removed from the sidewalk and roadway by the licensee.] **Roadway and Sidewalk Cafe Use.** A sidewalk cafe or roadway cafe shall be maintained in a “service-ready” condition. For purposes of this subdivision, “service-ready” means that the cafe is: (i) furnished and equipped with tables, chairs, or other basic service elements arranged for customer use during operational hours, and not stacked or stored; (ii) unobstructed and accessible; (iii) sanitary and free of trash, debris, and other refuse; and (iv) not used for storage or for any purpose unrelated to the operation of the cafe.

(p) License and Site Plan Availability. A licensee shall retain on the premises of a sidewalk cafe or roadway cafe a copy of the license issued for such cafe, and [upon] the site plan approved by the Department for such cafe. Upon request by an employee of the Department or other city agency, a licensee shall make available such copy of such license or site plan for inspection.

(q) Severe Weather Suspension. Upon the Department issuing a severe weather alert, sidewalk and roadway cafe operations shall be suspended, and a licensee shall cease operations of such sidewalk or roadway cafe in accordance with such notice. Any overhead covering that is not designed to resist snow and wind loads shall be removed from the sidewalk or roadway cafe. No patrons may occupy the sidewalk or roadway cafe during any time the Department orders such operations be suspended.

(r) Compliance with Revocable Consent Agreement. A licensee shall operate its sidewalk cafe or roadway cafe in compliance with the terms and conditions set forth in its revocable consent agreement and such operation shall conform to the site plan approved by the Department and attached to the revocable consent agreement.

(s) Egress. Sidewalk and roadway cafes shall not be designed, operated, or maintained in any manner that obstructs, or otherwise impedes access to, or use of, any means of egress pursuant to the New York City Fire Code and rules of the New York City Fire Department.

§ 7. Subparagraph (i), the opening paragraph and clause (D) of subparagraph (iii), and subparagraphs (iv) and (v) of paragraph (1), and subparagraphs (i), (ii) and (iv) of paragraph (2) of subdivision (a) of section 5-11 of Chapter 5 of Title 34 of the Rules of the City of New York are amended to read as follows:

(1) Siting Requirements for Sidewalk Cafes other than Enclosed Sidewalk Cafes.

(i) Open-Air. A sidewalk cafe, other than an enclosed sidewalk cafe, shall be open-air and shall contain only readily removable tables, chairs and other removable decorative items, except that:

(A) From November 30 to March 31 inclusive, a licensee may equip such cafe with readily removable vertical winterization coverings that may be attached to an overhead overing, or to an awning, either of which may be affixed to a building, provided that such overhead covering or awning complies with the requirements for an awning in the New York City construction codes, the New York City Fire Code, the rules of the New York City Fire Department, and any requirement of LPC, as applicable, pursuant to subparagraph (iv) of paragraph (2) of subdivision (a) of this section; and

(B) During the pendency of adverse weather conditions, a licensee may equip such cafe with vertical protective coverings pursuant to subparagraph (iv) of paragraph (2) of subdivision (a) of this section.

(iii) Clear Path. A clear path shall remain on the sidewalk, curb, or sidewalk widening in front of the ground floor restaurant operating a sidewalk cafe, other than an enclosed sidewalk cafe, after installation of such sidewalk cafe.

(D) The clear path is measured perpendicular from the outer edge of the perimeter of the sidewalk cafe to the nearest element or object, including a pedestrian ramp, installed or affixed to the sidewalk between such perimeter and the nearest curb line, or if there is no such element or object, to the [nearest curb line] front face of the curb. For purposes of clear path measurement, a drive rail as depicted on the department's website shall not be considered an obstruction.

(iv) Clearances. The following minimum distances are required between a sidewalk cafe, other than an enclosed sidewalk cafe, and the specified element or object:

Element or Object	Minimum Required Distance
Subway Stair: Open End (Entry Side)	15 Feet
Subway Elevator Entrance	10 Feet
Exhaust Ducts	10 Feet
MTA or FDNY Curb Cuts	10 Feet
Edges of Street Tree Beds	8 Feet
Mailboxes	8 Feet
LinkNYC Kiosks, Wayfinding Kiosks, E-Charging Stations, Parking Meters; Select Bus Service Fare Machines	8 Feet
Newsstands	8 Feet
Streetlights	8 Feet
Bus Stop Poles	8 Feet
Fire Hydrants	8 Feet
Bus Stop Shelters	8 Feet
Traffic Signals	8 Feet
Drive Rail	6 Feet
Citi Bike/Bike Share Stations, Bike Corrals, Micromobility Stations	5 Feet
[Primary] Major Building Entrances	5 Feet
Curb Cuts	5 Feet
Emergency Exit Hatches	5 Feet
Subway Stair: Closed-End (non-entry)	5 Feet
Subway Elevator: Non-Entry	5 Feet
Siamese Connections and Standpipes	5 Feet
Elevated Train Infrastructure (e.g., support beams, etc.)	3 Feet
Transformer Vaults	3 Feet
Vent Infrastructure (e.g., utility vent poles, ventilator grates, subway grates, etc.)	1 foot 6 inches

(v) Covering Restrictions. A sidewalk cafe, other than an enclosed sidewalk cafe, shall not be located over or block any of the following: cellar and basement doors, freight elevators or service entrances, [retail and non-primary] building entrances, and building projections (including, but not limited to, stoops, steps, and stairs), provided that a sidewalk cafe may block or cover a cellar or basement door that is not a means of egress if such door is closed and is reinforced, the safety of which closed and reinforced door is certified by a registered design professional as defined in the New York City Construction Codes in the form prescribed by the Department on its website.

(2) Material Requirements for Sidewalk Cafes other than Enclosed Sidewalk Cafes.

(i) Perimeter demarcation.

(A) The perimeter of a sidewalk cafe, other than an enclosed sidewalk cafe, shall be clearly and visibly demarcated by a removable and self-supporting base wall, railing, planter, fence, or stanchion and rope, which shall be no higher than two (2) feet and six (6) inches, exclusive of any shrubbery [and/or] or planting, provided that any such shrubbery and/or plantings shall be no higher than six feet from the ground. Such perimeter demarcations shall not be affixed to the sidewalk.

(B) Notwithstanding clause (A) of this subparagraph, where a sidewalk cafe consists of a single row of tables and chairs located adjacent to a building façade and extending no more than four feet six inches perpendicular from such façade at any point, a perimeter demarcation shall not be required.

(ii) Flooring. A sidewalk cafe, other than an enclosed sidewalk cafe, shall be level with the sidewalk. No platforms, flooring, or other ground coverings (e.g., rugs, artificial turfs, etc.) are permitted, except that sidewalk cafes that are located on a sidewalk with a slope or grade change of at least five percent may utilize flooring as part of the sidewalk cafe. Any such flooring shall comply with the flooring requirements set forth in sections 5-11(b)(2)(ii)(A)(1) and 5-11(b)(2)(ii)(A)(3) of these rules. Such flooring shall not cover a basement or cellar door and may be affixed to the sidewalk, if necessary for the safe maintenance and use of such flooring.

(iv) Awnings, Overhead Coverings, Vertical Winterization Coverings, Vertical Protective Coverings, and Umbrellas

(A) General Requirements. [An] If utilized, an awning, overhead covering, vertical winterization covering, vertical protective covering, or umbrella [utilized in a sidewalk cafe, other than an enclosed cafe must] shall be [easily] readily removable, [comprised of fire-resistant grade materials,] and wind resistant, and shall comply with the requirements of the New York City Fire Code and the rules of the New York City Fire Department.

(B) Awnings, Overhead Coverings, and Umbrellas

1. [Such a] An awning shall be no lower than eight (8) feet from the ground and must not exceed a maximum height of ten (10) feet. [Such an] An overhead covering or umbrella shall be no lower than seven (7) feet from the ground and must not exceed a maximum height of ten (10) feet.

[(C) Such an awning, that] **2.** If an awning or overhead covering is physically attached to a building, such awning or overhead covering must comply with the requirements for awnings in the New York City [Building Code] Construction Codes, the New York City

Fire Code, the rules of the New York City Fire Department, and the requirements of the Landmarks Preservation Commission, as applicable.

[(D) Such an] 3. An awning or overhead covering may not extend beyond the perimeter of the sidewalk cafe except for awnings that are in compliance with the New York City Building Code. Documentation demonstrating compliance with the New York City Building Code must be made available to Department personnel upon request.

[(E) All such umbrellas and] 4. An umbrella or overhead [coverings] covering not attached to the building must have a weighted base, and any stand or other structure utilized for the purpose of providing support for an overhead covering or umbrella shall be of sufficient size and strength to maintain the umbrella or overhead covering, made of durable materials, and free of defects.

5. Between November 30 and March 31, any overhead covering shall either be (i) fabricated from materials designed to resist snow and wind loads; or (ii) capable of being removed from the sidewalk cafe in the event the Department suspends operation due to a severe weather alert, as set forth in subdivision (q) of section 5-10 of this chapter.

(C) Vertical Winterization Coverings. Between November 30 and March 31, vertical winterization coverings are permitted on all sides of a sidewalk cafe for weatherproofing purposes, provided that clear visibility is maintained. Vertical winterization coverings shall be retractable and securely fastened to the structural framework of an awning or overhead covering. Vertical winterization coverings shall be comprised of non-rigid, transparent materials, including but not limited to vinyl and polyvinyl chloride, are permitted.

(D) Vertical Protective Coverings. During adverse weather conditions, vertical protective coverings are permitted on all sides of a sidewalk cafe provided that clear visibility is maintained. Vertical protective coverings shall be retractable and securely fastened to the structural framework of the overhead covering or awning. Vertical protective coverings shall be comprised of non-rigid, transparent materials, including but not limited to vinyl and polyvinyl chloride, are permitted.

§ 8. Subparagraphs (i) through (vi) of paragraph (1) of subdivision (b) of section 5-11 of Chapter 5 of Title 34 of the Rules of the City of New York are redesignated as subparagraphs (ii) through (vii), clause (C) of subparagraph (v) of such paragraph (1), relating to maintenance of a 15-foot emergency travel lane on every roadway, and subparagraph (vii) of such paragraph (1), relating to distance between a roadway cafe and an unmarked crosswalk, are REPEALED, and a new subparagraph (i) is added to such paragraph (1), to read as follows:

(i) Open-Air. A roadway cafe shall be open-air and contain only readily removable tables, chairs, and other removable decorative items, except that: (i) from November 30 to March 31 inclusive, a licensee may equip such cafe with a vertical winterization covering that may

be attached to an overhead covering pursuant to subparagraph (iv) of paragraph (2) of subdivision (b) of this section; and (ii) during the pendency of adverse weather conditions, a licensee may equip such roadway cafe with a vertical protective covering pursuant to subparagraph (iv) of paragraph (2) of subdivision (b) of this section.

§ 9. The table of clearances set forth in subparagraph (iv) of paragraph (1) of subdivision (b) of section 5-11 of Chapter 5 of Title 34 of the Rules of the City of New York is amended to add a new row to after “MTA or FDNY Curb Cuts” and before “Curb Cuts,” to read as follows:

Element or Object	Minimum Required Distance
MTA or FDNY Curb Cuts	10 Feet
<u>Pedestrian Ramps</u>	<u>8 Feet</u>
Curb Cuts	5 Feet

§ 10. Subparagraph (vii) of paragraph (1) of subdivision (b) of section 5-11 of Chapter 5 of Title 34 of the Rules of the City of New York is amended to read as follows:

(vii) Distance from [Marked] Crosswalks.

[The distance between the perimeter of a roadway cafe and a crosswalk shall be a minimum of:]

(A) [Twenty (20) feet, where] Where the nearest vehicular travel lane parallel to a roadway cafe provides for the direction of traffic to be approaching the intersection[;and], the minimum required distance between the perimeter of a roadway cafe and a marked or unmarked crosswalk shall vary depending on the width of the roadway, as follows:

<u>Roadway Width</u>	<u>Minimum Required Distance from Marked and Unmarked Crosswalks</u>
<u>Less than 30 feet</u>	<u>Site specific, pursuant to clause (B) of subparagraph (xii) of this paragraph</u>
<u>30 feet</u>	<u>20 feet</u>
<u>Between 31 feet and 50 feet</u>	<u>14 feet</u>

<u>Greater than 50 feet</u>	<u>8 feet</u>
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(B) [Eight (8) feet, where] Where the nearest vehicular travel lane parallel to a roadway cafe provides for the direction of traffic to be exiting the intersection, the required minimum distance between the perimeter of a roadway cafe and a crosswalk shall be eight (8) feet.

(C) If a crosswalk is unmarked, the required minimum distance shall be measured from the perimeter of the roadway cafe to a point where the lot line or sidewalk widening perimeter adjacent to the unmarked intersection would, if extended, intersect the street on which the roadway cafe is located.

§ 11. Paragraph (1) of subdivision (b) of section 5-11 of Chapter 5 of Title 34 of the Rules of the City of New York is amended by adding a new subparagraph (xii), to read as follows:

(xii) Emergency Travel Lane and Narrow Roadways.

(A) A 15-foot wide emergency travel lane must be maintained on every roadway on which a roadway cafe is proposed.

(B) Notwithstanding clause (A) of this subparagraph or any contrary provision of this chapter, the Department may allow for an emergency travel lane width of less than 15 feet on a roadway on which a roadway cafe is proposed upon determining that such an emergency travel lane is consistent with public safety, in accordance with the provisions of this clause. As required by clause (A) of subparagraph (vii) of this paragraph, the Department shall also allow a proposed roadway cafe on a roadway with a width of less than 30 feet in accordance with the provisions of this clause.

1. The Department shall request letters of no objection from the New York City Fire Department and the New York City Department of Sanitation. The Fire Department and Department of Sanitation shall each issue a letter of no objection, which may condition such no objection on certain modifications, or deny such request. Failure of either such agency to issue such letter or deny such a request within 30 days of such request will be considered to constitute no objection from such agency.

2. If the Fire Department or the Department of Sanitation denies such a request within such a 30-day period, such denial shall be in writing and state the specific public safety basis for the denial.

3. In no case may the Department allow an emergency travel lane width of less than twelve (12) feet.

4. Notwithstanding subparagraph (v) of this paragraph, on a roadway where an emergency travel lane of less than 15 feet has been allowed, the maximum length of a roadway cafe shall be 20 feet, and the maximum width of such roadway cafe shall be 6 and a half feet. Such a roadway cafe may install additional portions of a roadway cafe provided that each such portion is no greater than 20 feet in length. Where a portion of a roadway cafe is the maximum 20 feet in length, there shall be a minimum distance of six (6) feet between the perimeters of each adjacent portion.

§ 12. Subparagraph (i), subclause 1 of clause (A) of subparagraph (ii), and subparagraph (iv) of paragraph (2) of subdivision (b) of section 5-11 of Chapter 5 of Title 34 of the Rules of the City of New York are amended to read as follows:

(i) Barriers.

(A) Barriers shall be maintained on all sides of a roadway cafe except the side fronting the ground floor restaurant and shall not be affixed to the roadway.

(B) Barriers shall be between thirty (30) inches and forty-two (42) inches in height, not including the height of any plantings above such barrier, provided that any such plantings shall be no higher than six (6) feet from the ground. Barriers shall be at least four (4) inches in width.

(C) Only [water] liquid-filled barriers are permitted, except alternate fill materials may be used where approved by the Department. Each barrier shall be filled with a minimum of 150 pounds of fill per linear foot of barrier length.

(D) Barriers must be interconnected.

(E) Any cladding on a barrier must be securely fastened or affixed to the barrier.

(F) A reflective strip of a minimum of four (4) inches in width must be located on each barrier, along the entire length of the outward-facing side of such barrier.

(G) As an alternative to compliance with clauses (B) through (F) of this subparagraph, a barrier may comply with alternative barrier specifications posted on the Department's website which allow for alternative [materials] designs that match or exceed the safety of the requirements set forth in these rules. Each alternative barrier design must be reviewed and approved by the Department pursuant to the process set forth on the Department's website. Submissions for the Department's approval of alternative barrier designs shall include, but not be limited to, a certification from a professional engineer that the barrier complies with the alternative barrier specifications posted on the Department's website.

(ii) Flooring.

(A) If flooring is utilized as part of a roadway cafe, such flooring shall:

1. Be durable, lightweight, [easily] readily removable, mold-resistant, elevated from the ground level to allow for drainage, and removable to allow for cleaning;

(iv) Vertical Screenings, Overhead Coverings, Vertical Winterization Coverings, Vertical Protective Coverings, and Umbrellas.

(A) General Requirements.

1. If utilized, vertical screenings, overhead coverings, vertical winterization coverings, vertical protective coverings, and umbrellas shall be [easily] readily removable, [comprised of fire-resistant grade materials,] wind resistant, [and] shall not extend over the perimeter of the roadway cafe and shall comply with the requirements of the New York City Fire Code and New York City Fire Department rules.

(B) Overhead Coverings and Umbrellas.

1. An overhead covering or umbrella shall be no lower than seven (7) feet and shall not exceed a maximum height of ten (10) feet from the base or floor of the roadway cafe.
2. All umbrellas and overhead coverings must have a weighted base. Any stand or other structure utilized for the purpose of providing support for an overhead covering or umbrella shall not be affixed to the outward facing side of a barrier and shall be of sufficient size and strength to maintain the umbrella or overhead covering, made of durable materials, and free of defects.
3. Between November 30 and March 31, all overhead coverings shall either be (i) fabricated from materials designed to resist snow and wind loads; or (ii) capable of being removed from the roadway cafe in the event the Department suspends operation due to a severe weather alert, as set forth in subdivision (q) of section 5-10 of this chapter.

(C) Vertical Screening. Vertical screening is permitted only on the roadway-facing side of the cafe between the barrier and six (6) feet above the base or floor of the cafe, provided that clear visibility is maintained. Plantings, lattice panels or clear plexiglass that maintain clear visibility are allowed. Opaque screening is prohibited. Vertical screening shall not be affixed to the outward facing side of a barrier.

(D) [All umbrellas and overhead coverings must have a weighted base. Any stand or other structure utilized for the purpose of providing support for an overhead covering

or umbrella shall not be affixed to the outward facing side of a barrier and shall be of sufficient size and strength to maintain the umbrella or overhead covering, made of durable materials, and free of defects.] **Vertical Winterization Coverings.** Between November 30 and March 31, vertical winterization coverings are permitted on all sides of a year-round roadway cafe for weatherproofing purposes, provided that clear visibility is maintained. Vertical winterization coverings shall be retractable and securely fastened to the structural framework of the overhead covering. Vertical winterization coverings shall be comprised of non-rigid, transparent materials, including but not limited to vinyl and polyvinyl chloride, are permitted.

(E) Vertical Protective Coverings. During the pendency of adverse weather conditions, vertical protective coverings are permitted on all sides of a roadway cafe provided that clear visibility is maintained. Vertical protective coverings shall be retractable and securely fastened to the structural framework of the overhead covering. Vertical protective coverings shall be comprised of non-rigid, transparent materials, including but not limited to vinyl and polyvinyl chloride, are permitted.

§ 13. Paragraph (1) of subdivision (c) and clauses (i) and (iii) of paragraph (3) of subdivision (d) of section 5-12 of Chapter 5 of Title 34 of the Rules of the City of New York are amended to read as follows:

(1) In addition to any other authorized enforcement procedures, the Commissioner may, after providing notice of intent to suspend or revoke a license and an opportunity to be heard in accordance with paragraph (2), suspend or revoke a license to operate a sidewalk cafe or roadway cafe and order the removal of such sidewalk cafe or roadway cafe for (i) 3 or more violations of the same provision of subchapter 1 of chapter 1 of title 19 of the Administrative Code or these rules within a 2-year period, [or] (ii) for any 6 or more violations of any provision of such subchapter or these rules within a 2-year period or (iii) 3 or more failures within a 2-year period to timely pay the annual compensation for a revocable consent to operate a sidewalk or roadway cafe. The Department will provide notice to the licensee of the Department's intent to suspend or revoke the license of such licensee no later than 30 days prior to such suspension or revocation.

(3) Commissioner's Order.

(i) An order pursuant to this subdivision will be served personally or by mail or electronic mail to the person and address contained in the records of the Department. The person to whom such order is directed has an opportunity to be heard within five (5) business days after a timely request for such opportunity is received by the Department. A request must be made within the time and in the manner directed on the order. If, after considering the written objections of the respondent, the Commissioner affirms the order, the action required by the order shall be completed within a reasonable period of time, as set forth in such order, after notice of such determination is mailed to the respondent.

(iii) Where the Department has a[n] physical address or electronic mail address for the person to whom such order was directed, within five (5) days of removal, the Department will mail or e-mail to such person notice of such removal and the manner in which such furniture, equipment, structure or other obstruction may be claimed. In any notification served personally, [or] mailed, or e-mailed pursuant to this section, the Department will include a statement of the right to sell, dismantle, destroy or otherwise dispose of such furniture, equipment, structure, or other obstruction within thirty (30) days after removal if such property is not claimed.

§ 14. The four rows referring to 34 RCNY 5-10 and 34 RCNY 5-11 in the first penalty schedule set forth in section 3-01 of chapter 3 of title 34 of the Rules of the City of New York are REPEALED and new rows are added to such penalty schedule in alphanumerical order to read as follows:

<u>Section</u>	<u>Description</u>	<u>Penalty</u> <u>(\$)</u>	<u>Default</u> <u>(\$)</u>
<u>34 RCNY § 5-10(a)(1)</u>	<u>Failure to keep a cafe clean, well-maintained, and free of trash, debris, graffiti, vermin, food scraps, or unsanitary conditions (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-10(a)(1)</u>	<u>Failure to keep a cafe clean, well-maintained, and free of trash, debris, graffiti, vermin, food scraps, or unsanitary conditions (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-10(h)</u>	<u>Failure to provide direct access for persons with disabilities (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-10(h)</u>	<u>Failure to provide direct access for persons with disabilities (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-10(i)(2)</u>	<u>Unauthorized use of musical instruments or sound amplification devices (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-10(i)(2)</u>	<u>Unauthorized use of musical instruments or sound amplification devices (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>

<u>34 RCNY § 5-10(l)</u>	<u>Failure to keep a sidewalk cafe or roadway cafe, or any associated items, out of the furnishing zone (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-10(l)</u>	<u>Failure to keep a sidewalk cafe or roadway cafe, or any associated items, out of the furnishing zone (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-10(n)(l)</u>	<u>Operation of a seasonal roadway cafe during the November 30 to March 31 (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-10(n)(l)</u>	<u>Operation of a seasonal roadway cafe during the November 30 to March 31 (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-10(o)</u>	<u>Failure to maintain a sidewalk cafe or roadway cafe in a “service-ready” condition, including failure to ensure that the cafe is furnished and equipped for customer use, unobstructed and accessible, sanitary and free of trash, debris, and refuse, and not used for storage or any purpose unrelated to cafe operations. (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-10(o)</u>	<u>Failure to maintain a sidewalk cafe or roadway cafe in a “service-ready” condition, including failure to ensure that the cafe is furnished and equipped for customer use, unobstructed and accessible, sanitary and free of trash, debris, and refuse, and not used for storage or any purpose unrelated to cafe operations. (SECOND OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-10(q)</u>	<u>Failure to cease sidewalk cafe or roadway cafe operations upon Department suspension due to a severe weather alert (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-10(q)</u>	<u>Failure to cease sidewalk cafe or roadway cafe operations upon Department suspension due to a severe weather alert (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-10(r)</u>	<u>Failure to operate a sidewalk cafe or roadway cafe in compliance with the terms and conditions of its revocable consent agreement or approved site plan (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>

<u>34 RCNY § 5-10(r)</u>	<u>Failure to operate a sidewalk cafe or roadway cafe in compliance with the terms and conditions of its revocable consent agreement or approved site plan (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(1)(ii)</u>	<u>Sidewalk cafe expanding beyond the frontage of the ground floor restaurant (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(1)(ii)</u>	<u>Sidewalk cafe expanding beyond the frontage of the ground floor restaurant (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(1)(iii)(A)</u>	<u>Failure to maintain the required minimum clear path relating to sidewalk cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(1)(iii)(A)</u>	<u>Failure to maintain the required minimum clear path relating to sidewalk cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(1)(iv)</u>	<u>Failure to maintain required sidewalk cafe clearances (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(1)(iv)</u>	<u>Failure to maintain required sidewalk cafe clearances (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(1)(v)</u>	<u>Locating a sidewalk cafe over or obstructing prohibited doors, entrances, or building projections (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(1)(v)</u>	<u>Locating a sidewalk cafe over or obstructing prohibited doors, entrances, or building projections (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(1)(vi)</u>	<u>Failure to maintain required clearance from utility infrastructure or prevent access relating to sidewalk cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(1)(vi)</u>	<u>Failure to maintain required clearance from utility infrastructure or prevent access relating to sidewalk cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(2)(i)</u>	<u>Failure to provide compliant sidewalk cafe perimeter demarcation (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>

<u>34 RCNY § 5-11(a)(2)(i)</u>	<u>Failure to provide compliant sidewalk cafe perimeter demarcation (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(2)(ii)</u>	<u>Installation of non-compliant flooring or ground coverings in a sidewalk cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(2)(ii)</u>	<u>Installation of non-compliant flooring or ground coverings in a sidewalk cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(2)(iv)</u>	<u>Use of non-compliant awnings, overhead coverings, vertical winterization coverings, vertical protective coverings, or umbrellas relating to a sidewalk cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(2)(iv)</u>	<u>Use of non-compliant awnings, overhead coverings, vertical winterization coverings, vertical protective coverings, or umbrellas relating to a sidewalk cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(a)(2)(v)</u>	<u>Failure to comply with sidewalk cafe lighting or electrical connection requirements (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(a)(2)(v)</u>	<u>Failure to comply with sidewalk cafe lighting or electrical connection requirements (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(1)(ii)</u>	<u>Roadway cafe expanding beyond the frontage of the ground floor restaurant (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(1)(ii)</u>	<u>Roadway cafe expanding beyond the frontage of the ground floor restaurant (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(1)(iv)</u>	<u>Failure to maintain required roadway cafe clearances (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(1)(iv)</u>	<u>Failure to maintain required roadway cafe clearances (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(1)(v)</u>	<u>Failure to comply with roadway cafe dimensional requirements (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>

<u>34 RCNY § 5-11(b)(1)(v)</u>	<u>Failure to comply with roadway cafe dimensional requirements (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(1)(vii)</u>	<u>Failure to maintain the required distance between a roadway cafe and a crosswalk (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(1)(vii)</u>	<u>Failure to maintain the required distance between a roadway cafe and a crosswalk (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(1)(viii)</u>	<u>Improper placement of a roadway cafe within a floating parking lane, including encroachment into a bicycle lane or beyond the legal parking area (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(1)(viii)</u>	<u>Improper placement of a roadway cafe within a floating parking lane, including encroachment into a bicycle lane or beyond the legal parking area (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(1)(ix)</u>	<u>Placement of roadway cafe elements that obstruct required visibility of regulatory or warning signs (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(1)(ix)</u>	<u>Placement of roadway cafe elements that obstruct required visibility of regulatory or warning signs (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(1)(x)</u>	<u>Failure to maintain required clearance from utility infrastructure or prevent access relating to roadway cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(1)(x)</u>	<u>Failure to maintain required clearance from utility infrastructure or prevent access relating to roadway cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(i)(A)</u>	<u>Failure to install or maintain roadway cafe barriers on three sides of a roadway cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(i)(A)</u>	<u>Failure to install or maintain roadway cafe barriers on three sides of a roadway cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>

<u>34 RCNY § 5-11(b)(2)(i)(B)</u>	<u>Use of roadway cafe barriers that do not comply with required dimensions (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(i)(B)</u>	<u>Use of roadway cafe barriers that do not comply with required dimensions (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(i)(C)</u>	<u>Use of roadway cafe barriers that do not comply with fill material or minimum weight requirements (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(i)(C)</u>	<u>Use of roadway cafe barriers that do not comply with fill material or minimum weight requirements (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(i)(F)</u>	<u>Failure to install required reflective strip on roadway cafe barriers (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(i)(F)</u>	<u>Failure to install required reflective strip on roadway cafe barriers (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(ii)(A)(1)</u>	<u>Use of flooring that does not comply with required standards: durable, lightweight, readily removable, mold-resistant and elevated from the ground level relating to roadway cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(ii)(A)(1)</u>	<u>Use of flooring that does not comply with required standards: durable, lightweight, readily removable, mold-resistant and elevated from the ground level relating to roadway cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(ii)(A)(4)</u>	<u>Failure to maintain 6-inch drainage channel beneath flooring relating to roadway cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(ii)(A)(4)</u>	<u>Failure to maintain 6-inch drainage channel beneath flooring relating to roadway cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(ii)(B)</u>	<u>Failure to provide an ADA-compliant access ramp for a roadway cafe without flooring (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(ii)(B)</u>	<u>Failure to provide an ADA-compliant access ramp for a roadway cafe without flooring (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>

<u>34 RCNY § 5-11(b)(2)(ii)(C)</u>	<u>Use of prohibited ground coverings in a roadway cafe (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(ii)(C)</u>	<u>Use of prohibited ground coverings in a roadway cafe (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(iii)</u>	<u>Use of non-compliant roadway cafe furnishings (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(iii)</u>	<u>Use of non-compliant roadway cafe furnishings (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(iv)</u>	<u>Use of non-compliant roadway cafe vertical screening, overhead coverings, vertical winterization coverings, vertical protective coverings or umbrellas (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(iv)</u>	<u>Use of non-compliant roadway cafe vertical screening, overhead coverings, vertical winterization coverings, vertical protective coverings or umbrellas (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-11(b)(2)(v)</u>	<u>Failure to comply with roadway cafe lighting or electrical connection requirements (FIRST OFFENSE)</u>	<u>200</u>	<u>200</u>
<u>34 RCNY § 5-11(b)(2)(v)</u>	<u>Failure to comply with roadway cafe lighting or electrical connection requirements (SECOND AND SUBSEQUENT OFFENSE)</u>	<u>500</u>	<u>500</u>
<u>34 RCNY § 5-12(d)</u>	<u>Failure to comply with a Commissioner's order</u>	<u>500</u>	<u>1500</u>

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 Related to Outdoor Dining

REFERENCE NUMBER: 26 RG 066

RULEMAKING AGENCY: Department of Transportation

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

Date: October 6, 2026

Senior Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

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

RULE TITLE: Amendment of Rules Related to Outdoor Dining

REFERENCE NUMBER: DOT-96

RULEMAKING AGENCY: Department of Transportation

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) Provides that DOT issue a Corrective Action Request prior to a notice of violation

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

October 6, 2026
Date