



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

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LOWELL D. KERN
Chair

JESSE R. BODINE
District Manager

August 4, 2020

Polly Trottenberg
Commissioner
NYC Department of Transportation
55 Water Street, 9th Fl.
New York, NY 10041

Oxiris Barbot
Commissioner
NYC Department of Health and Mental Hygiene
42-09 28th Street
Long Island City, NY 11101

Re: Outdoor Dining

Dear Commissioners Trottenberg and Barbot,

This is to bring to your attention that the current NYC guidelines to facilitate outdoor dining do not provide the necessary distancing based on the guidelines promulgated by the Governor and your agency to avoid COVID-19 contagion. While we are extremely supportive of the City's efforts to assist restaurants in recovering and rehiring their employees, we fear that the current guidelines are systematically putting patrons and pedestrians at high risk.

As rules are being adjusted based on experience, we ask that a safe separation of diners and pedestrians be established, or a separate walking lane be created immediately on each corridor or street where outdoor dining has been authorized. Based on our observations we also include longer term suggestions for going forward with the program.

The current guidelines for outdoor dining specify 6 ft spacing between diners. However, it does not specify any distancing from pedestrians who travel in the adjacent 8 ft space. Unless the underlying assumption is that pedestrians and wheelchairs should use those 2 ft of sidewalk furthest away from the café, every diner could at any given time be as close as 1 ft away from a stream of mask-less pedestrians. When the café is located along the wall and a dining space is in

the parking lane, the 8 ft dimension does not allow any distancing. Both patrons and pedestrians are at risk.

Per the Governor's executive order, operators are subject to a summons of \$10,000 if they do not enforce safe distancing or the wearing of masks. Their waiters must use masks. But they cannot control pedestrians who pass by at unsafe distance without a mask.

The Department of Health's guidelines to diners read: "Keep your distance! Stay at least 6 feet away from diners not in your party and from restaurant staff, as much as possible. Be mindful of maintaining distance when waiting to be seated or to use the restroom." The general guideline reads: "Physical distancing: stay at least 6 feet away from other people as much as possible."

We want to ensure that the outdoor dining program is adjusted beyond COVID-19 in the long term to take advantage of the experience acquired during this crisis. Here are some common observations:

- The eight-foot clearance on sidewalks has long been inadequate and it seems rarely adhered to
- Food pick-up service coinciding with dining creates more sidewalk congestion (see 24th St./Tenth Ave.)
- Waiter service encroaches in the pedestrian right-of-way; staff stations are occasionally in the sidewalk path between table areas
- Illegal storm vestibules and menus and sandwich boards take away dining space, pushing tables more onto the sidewalk
- Self-policing is clearly not adequate and compliance enforcement from the City seems non-existent
- Bike Lane conflicts: dining next to protected bike lane sometimes creates a bike lane hazard (patrons/staff, garbage in bike lane)

At its July 22nd Full Board meeting, MCB4 voted by 47 in favor, 0 against, 0 abstaining, and 0 present but not eligible to vote, to suggest the following measures be considered for the post-COVID-19 future:

- The minimum right-of-way for pedestrians should be changed to 12 feet, with no obstructions.
- Walking and dining activities should be installed in separate spaces to reduce conflict and non-compliance: dining should either be entirely on the sidewalk or entirely on the roadway, but not both. Dining on the sidewalk (adjacent to the restaurants) with a continuous walking lane in the roadway is preferable.
- Food and drink pick-up should be done exclusively inside
- The Street Seats program that preceded COVID could be scaled up. The City may consider expanding Street Seats to allow for mixed public and seated restaurant seating. Market rate rent should be charged for street seats with dining.

- Sidewalk cafes and outdoor dining rules should be aligned for a simpler, more expeditious process that does not require a lawyer or an architect, but still protects pedestrians' right-of-way and residents' quality of life.
- In the same vein, there needs to be a single agency to enforce all sidewalk complaints, so that a single officer can tackle many complaints in the same neighborhood. Because sidewalks are a transportation resource for pedestrians, the DOT seems a logical choice.
- A modicum of planning and assistance for applicants is required to prevent confusion with the rules and non-compliance. In spite of the Mayor's disdain for Community Boards, they currently play a critical role in assisting sidewalk café applicants. Their expertise could be leveraged into an expedited and neighborhood-savvy process.

MCB4 appreciates the efforts the DOT and DOHMH have taken to assist restaurants in recovering and rehiring their employees and we hope these adjustments can be made for the safety of everyone using the sidewalks.

Sincerely,



Lowell D. Kern
Chair
Manhattan Community Board 4



Christine Berthet
Co-chair
Transportation Planning Committee



Dale Corvino
Co-chair
Transportation Planning Committee