



# COMMUNITY BOARD ELEVEN

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Nilsa Orama  
Chair

Angel D. Mescain  
District Manager

September 29, 2021

Marisa Lago  
Director  
New York City Department of City Planning  
120 Broadway, 31st Floor  
New York, NY 10271

**Re: Recommendation on Land Use Application N 210434 ZRY- Open Restaurants Text Amendment**

Dear Director Lago,

Community Board 11 (CB11) appreciates the opportunity to review and comment on the Department of City Planning's proposed Open Restaurants Text Amendment.

The Department of City Planning (DCP) together with the Department of Transportation (DOT) is proposing a zoning text amendment to facilitate a component of a permanent citywide Open Restaurants program. Specifically, the zoning text amendment would delete Article 1, Chapter 4 of the Zoning Resolution in its entirety, which would have the effect of removing geographic limitations to where restaurants can apply for sidewalk cafes.

The proposed zoning text amendment would affect every community district within the City. The proposed action would remove the definitions of sidewalk cafes from the Zoning Resolution and any mentions of them in special districts, as well as other clean-up text to fully remove any zoning prohibitions related to the operation of sidewalk cafes.

## Description of the Proposed Action

The Proposed Action would also remove any zoning geographic restrictions on sidewalk café eligibility in the program to allow any restaurant with an active DOHMH food service establishment license and ground floor frontage to apply for an Open Restaurant permit so long as they meet the siting criteria as established in the proposed DOT permanent Open Restaurants program.

## Actions Necessary to Facilitate the Project

Revisions to provisions of the New York City Zoning Resolution (ZR) to the extent necessary to provide for the implementation, administration and operation of the Open Restaurants Program, including:

- ZR, Article 1, Chapter 2, relating to sidewalk café definitions;
- ZR, Article 1, Chapter 4, relating to sidewalk cafe regulations;
- ZR Section 22-00, to the extent that a sidewalk café may not be enlarged in R10H Districts;
- ZR Section 32-411, to the extent such section does not allow for operable windows;
- ZR Section 33-05 & 43-03, to clarify the compatibility of DOT café programs and sidewalk widening;
- ZR Section 52-34, to the extent such section requires certain eating and drinking establishment uses in Residence Districts to be located within completely enclosed buildings;
- ZR Section 73-243, to extent BSA special permit provisions allowing for eating and drinking establishments would preclude operable windows;
- ZR Section 83-05 to extent that it would preclude operable windows in a Limited Commercial District; • ZR Section 97-03, 97-13, 97-14, 97-412 to the extent such section limits the locations of sidewalk cafes in the Special 125th Street District;
- ZR Section 109-02, to the extent such section imposes any condition on the use of public streets and sidewalks for the maintenance of sidewalk cafes or outdoor cafes by restaurants in the Special Little Italy District; and
- ZR Section 117-03, 117-05, to the extent such section limits the locations of sidewalk cafes in the Special Long Island City Mixed Use District.

Community Board Recommendation

Community Board 11 met on September 28, 2021 and voted to recommend that this application be rejected with the following conditions:

1. the NYC Department of Transportation ensure that community boards have an engagement process for approvals of the sidewalk cafe permits
2. the NYC Department of Transportation provide an enforcement method for sidewalk cafes and ensure proper safety regulations for pedestrian walkway, street lighting, and sanitation concerns
3. that a government agency with more experience in this regard would be appointed to oversee the permit approval process

Full Board Vote: In Favor: 25; Opposed: 1; Abstentions: 9; Present not Voting: 1

If you have any questions regarding our recommendation, please contact Angel Mescaín, District Manager, at 212-831-8929 or amescain@cb11m.org.

Sincerely,



Nilsa Orama  
Chair

cc: Hon. Gale A. Brewer, Manhattan Borough President (via email)  
Hon. Diana Ayala, New York City Council (via email)

Hon. Bill Perkins, New York City Council (via email)  
Hon. Ben Kallos, New York City Council (via email)  
Hon. Keith Powers, New York City Council (via email)  
Hon. Brian Benjamin, New York State Senate (via email)  
Hon. Jose M. Serrano, New York State Senate (via email)  
Hon. Robert J. Rodriguez, New York State Assembly (via email)  
Hon. Inez Dickens, New York State Assembly (via email)  
Elsie Encarnacion, Community Board 11 (via email)  
Judith Febbraro, Community Board 11 (via email)