



BUILDINGS
2024-005
BULLETIN
OPERATIONAL

ISSUANCE DATE
July 9, 2024

ISSUER: Keith L. Wen, R.A. 
Assistant Commissioner
Code & Zoning Interpretation

PURPOSE: This Bulletin provides guidance for the *Dining Out NYC* program.

SUBJECT(S): DOT Rule: Chapter 5, Title 34 of the Rules of the City of New York (RCNY), *Dining Out NYC* program; Sidewalk and Roadway Cafes; Outdoor Cafes; Outdoor radiant heaters.

SUPERSEDED DOCUMENTS: BB 2021-005, BB 2021-006, BB 2021-007

RELATED CODE SECTIONS & RESOURCES: BC 3105, BC 3202.2.3, BC Chapter 11, NYC Electrical Code, DOT Rule: Chapter 5, Title 34 of the Rules of the City of New York (RCNY)

I. BACKGROUND

Pursuant to the Department of Transportation's (DOT) adopted rule relating to the Dining Out NYC program effective March 3, 2024, the Department of Buildings (DOB) issues the following guidance for sidewalk cafes and roadways cafes that are beyond the property lines, and outdoor cafes located within the property lines.

Sidewalk & Roadway Cafes (located beyond the property lines)

Please refer to <https://www.diningoutnyc.info/rules> and the adopted DOT Rule for additional requirements and guidance. If you have successfully applied for a license and revocable consent to DOT's Dining Out NYC program, then a Temporary Use Permit (TUP) from DOB is not required for such dining setups. Some of the site installations may still require permits from DOB as outlined in this Bulletin.

Outdoor Cafes (located within the property lines)

An outdoor cafe proposed within property lines is subject to DOB's standard permit and approval process. Information on obtaining a permit is available at www.nyc.gov/site/buildings/property-or-business-owner/obtaining-a-permit.page. An alternative option to DOB's plan examination and approval process is the Professional Certification Program which enables Professional Engineers (PE) and Registered Architects (RA) to certify that the plans they file with the DOB comply with all applicable laws.

Sidewalk Cafes Located within a Privately-owned Portion of Sidewalk Widening

Sidewalk cafes located within a privately-owned portion of a sidewalk widening developed pursuant to the NYC Zoning Resolution are subject to DOT jurisdiction. Refer to the adopted [DOT Rule](#) for requirements regarding a sidewalk cafe located in a sidewalk widening developed pursuant to the NYC Zoning Resolution.

II. SEATING CAPACITY

Because occupant load is typically stated on the Certificate of Occupancy (CO) and / or Place of assembly Certificate of Operation (PACO), customers that are allowed at the sidewalk and roadway cafes should be seated separately on the exterior portion of the establishment and should not be seated on the interior portion of the establishment, which would result in an unlawful increase in the occupant capacity within the establishment.

III. GENERAL EXITS FROM BUILDING & PROHIBITED OBSTRUCTIONS

All building exit doors, stairs, and ramps must remain clear and unobstructed. No reduction in widths of aisles, corridors, or entries should take place. All permitted materials used for a sidewalk café dining setup and/or roadway café dining setup including materials for perimeter demarcation, furnishings, overhead coverings, umbrellas, barriers, and flooring must not obstruct the building path of egress or access to building exits. All exit signs must remain visible. For other clearance requirements, please refer to the [DOT Rule](#).

IV. ACCESSIBILITY

Sidewalk and roadway cafes located beyond property lines are subject to the Americans with Disabilities Act (ADA) and, guidelines for accessibility requirements, including but not limited to, percentages and dispersions of accessible tables and seatings.

Outdoor cafes located within the property lines are subject to the Americans with Disabilities act (ADA), current New York City (NYC) Building Code Chapter 11 requirements for accessibility, including but not limited to percentages, seating at tables, counters and work surface dispersion requirements within dining and drinking areas

V. ELECTRICAL CONNECTIONS

All electrical work whether located within or beyond the property line must be filed with DOB. Electrical work must be performed by a licensed master electrician with an approved electrical filing and permit. For electrical filing application, visit our website at www.nyc.gov/site/buildings/property-or-business-owner/electrical-permit.page. All electrical work must comply with the current NYC Electrical Code, rules, any other relevant Bulletins, and guidance documents. Please refer to the [DOT Rule](#) for additional placement restrictions regarding lighting and electrical connections for sidewalk and roadway Cafes.

A. Electrically Powered Outdoor Radiant Heaters

The installation of outdoor electric powered radiant heaters must comply with the current NYC Electrical Code. When selecting radiant heating equipment for outdoor use, such equipment must be listed for outdoor use. Freestanding electric radiant heaters and ceiling/wall mounted electric radiant heaters are two options that can provide comfort heating to outdoor dining spaces.

The current NYC Electrical Code requires that electrical outlets installed in damp or wet locations be listed weather-resistant type and have in-use covers that are weatherproof to ensure that they operate safely. Outdoor outlets must be Ground-Fault Circuit Interrupter (GFCI) type outlets, which are designed to stop the flow of electricity when there is an imbalance, thus preventing any damage to equipment or injury to persons.

The requirements for electrical wiring differ based on the type of heater selected. The use of temporary cords and cables are not permitted. For wiring methods, please refer to NYC Electrical Code Chapter 3 wiring methods (raceway and conductors) suitable for outdoors. A licensed master electrician or professional engineer should verify that restaurants' electrical systems are properly sized to handle the anticipated load associated with the radiant heaters.

Once the scope of electrical work is established, a licensed master electrician should file the required documents online through DOB NOW: *Build* and use the same system to obtain permits for work. Electrical work cannot be performed without an approved electrical filing and permit, but electrical work can begin once the required permits are obtained. In most instances, the permit is issued immediately. Once DOB signs off on the electrical work, the electrical heating units should be operated and maintained in accordance with the manufacturer's instructions. For additional lighting and electrical connection requirements, please refer to the [DOT Rule](#).

VI. NATURAL GAS-FIRED RADIANT HEATERS

All gas work located within or beyond the property line must be filed with DOB. Open flame natural gas heaters and propane heaters are not permitted in sidewalk, roadway, and outdoor cafes. Natural gas-fired radiant heaters may be allowed for sidewalk cafes or outdoor cafes but not permitted for roadway cafes. Heating units utilized in a sidewalk or outdoor cafe must comply with all applicable laws, rules, regulations and must be approved for use in such cafe by DOB and NYC Fire Department (FDNY). No gas work can be performed without an approved Limited Alteration Application (LAA) filing or alteration filing, and a DOB work permit obtained by a Licensed Master Plumber. For LAA filing application, visit our website www.nyc.gov/site/buildings/industry/limited-alteration-application.page. All required FDNY permits and Certificates of Fitness must be obtained prior to operation of the heaters.

VII. AWNINGS

Awnings within the property line or beyond the property line that are physically attached to a building require a DOB permit. Awnings must be designed and constructed pursuant to current NYC Building Code Chapter 31, including load and combustibility criteria, and Chapter 32, including projection limitations. Additionally, awnings must not be lower than eight (8) feet from the ground and must not exceed a maximum height of ten (10) feet per recently adopted [DOT Rule](#). Awnings must also be designed to comply with the requirements of the NYC Zoning Resolution and Landmarks Preservation Commission, as applicable.

ADDITIONAL RESOURCES

- **Obtaining a Permit:** nyc.gov/site/buildings/property-or-business-owner/obtaining-a-permit.page
- **Electrical Permit:** nyc.gov/site/buildings/property-or-business-owner/electrical-permit.page
- **Limited Alteration Application:** www.nyc.gov/site/buildings/industry/limited-alteration-application.page
- **DOT Dining Out NYC information:** www.diningoutnyc.info/rules
- **Official Rules website:** [Adopted Rule; https://rules.cityofnewyork.us/wp-content/uploads/2024/02/DOT-Notice-of-Adoption-DOT-Dining-Out-NYC-Rules-Accessible.pdf](https://rules.cityofnewyork.us/wp-content/uploads/2024/02/DOT-Notice-of-Adoption-DOT-Dining-Out-NYC-Rules-Accessible.pdf)