

**NYC Department of Transportation Testimony Before the City Council Committees on
Consumer and Worker Protection and Transportation and Infrastructure
April 23, 2025**

Good morning, Chair Menin, Chair Brooks-Powers, and members of the Committees on Consumer and Worker Protection and Transportation and Infrastructure. I am Margaret Forgione, First Deputy Commissioner of the New York City Department of Transportation. With me today are Michelle Craven, Associate Deputy Commissioner for Cityscape and Franchises, and Rick Rodriguez, Assistant Commissioner for Intergovernmental and Community Affairs. Thank you for the opportunity to testify on behalf of Mayor Adams and Commissioner Rodriguez on the City's outdoor dining program.

During the pandemic, New Yorkers came to enjoy and appreciate outdoor dining in new ways. It was not only a critical lifeline for many restaurants and small businesses when indoor dining was prohibited, but it contributed to the vibrancy of our neighborhoods and improved the dining experience for so many people, especially on warm, sunny days. As the pandemic ended, New York City DOT worked closely with the City Council to make outdoor dining a permanent part of our city's streetscape, and we are pleased that the Council did so when it passed Local Law 121 of 2023. The law created seasonal roadway dining, preserved year-round sidewalk dining, and provided the framework for the future of outdoor dining. Just as we did during the emergency program, DOT has worked hard to help as many restaurants participate in the program as possible.

Three weeks ago, DOT launched the first season of Dining Out NYC. There were over 2,500 restaurants authorized to operate, including every restaurant that applied by the August 3, 2024 deadline and completed any required steps. While a new program and new rules bring new realities for restaurants, we are encouraged that the program is already well over double the size of the City's pre-pandemic program, is the largest outdoor dining program in the country, and has a similar participation rate to Paris, which also recently made elements of its outdoor dining program seasonal. Our team has been working tirelessly to get us to this point, and we are proud of all we have achieved so far.

Now to give some background on how we got here. The City's outdoor dining program has gone through several iterations – first, the pre-pandemic sidewalk cafe program managed by the Department of Consumer and Worker Protection (DCWP), then the pandemic-era temporary outdoor dining program authorized by mayoral emergency executive orders, and now the permanent Dining Out NYC program created in response to Local Law 121 of 2023. With each iteration, we built on lessons learned and took bold steps to reimagine the use of public space.

In the pre-pandemic era, around 1,200 restaurants participated in the sidewalk cafe program managed by DCWP. Restaurants were allowed to extend their dining onto the sidewalk as an unenclosed, or in certain cases, an enclosed cafe. Cafes complied with the Zoning Resolution—which prohibited sidewalk cafes entirely in many neighborhoods and on certain corridors. They also had to comply with the Building Code, obtain a revocable consent through DCWP, obtain approval from City Planning, and approval from the Landmarks Preservation Commission depending on the location of the restaurant. These regulations were confusing and restrictive,

creating barriers to small businesses trying to participate in the program, especially in the outer boroughs.

Then in 2020, the COVID-19 pandemic brought us challenges unlike any we'd seen before. The necessity of closing indoor dining for most of 2020 meant that restaurants were particularly impacted by the pandemic, losing thousands of staff and in many cases closing permanently. Balancing public health guidelines and the need to save the city's beloved restaurant industry, the City rapidly created a temporary Open Restaurants program so New Yorkers could safely dine outside. The program reimaged the use of public space to bring restaurant dining to streets and sidewalks across the city; during the peak of the pandemic, the program had between 6,000 and 8,000 restaurants participating and saved 100,000 jobs.

The temporary program was free for restaurants, suspended most pre-existing sidewalk cafe requirements, and allowed restaurants to self-certify that they met the temporary program's requirements—all with the goal of encouraging as many restaurants to participate as quickly as possible. While the program was overwhelmingly popular, it also brought about numerous quality of life concerns around noise and sanitation, among other issues.

Thus, when planning the permanent outdoor dining program, DOT worked to implement a program built around lessons learned from both the DCWP sidewalk cafe program, as well as the temporary Open Restaurants program. The goal that we shared with the Council was to strike a balance between the programs of the past: loosening requirements from the pre-pandemic program as much as possible to encourage wider participation throughout the city while updating regulations to address quality of life concerns. The program has significantly lower fees than the pre-pandemic sidewalk cafe program, with rates varying by location and setup size. Simultaneously, a Zoning Text Amendment also removed the pre-pandemic program's numerous geographic restrictions, allowing the restaurants to participate in areas of the city where outdoor dining was not allowed previously.

With the transition to the first year of Dining Out NYC, we are proud of the work the agency has done so far. DOT conducted extensive outreach, including 44 webinar presentations with question and answer sessions for restaurants, repeated email communications to every business with a food service establishment permit, and over 15,000 palm cards distributed in person. We also did extensive engagement with the news media and via social media to raise awareness about the program. DOT has received nearly 3,900 applications from over 3,200 restaurants, and our goal is to help all of these restaurants participate in the program. When an application is incomplete or includes errors, our staff doesn't just reject the application, we work with applicants to help them achieve approval.

To expedite the lengthy application process required by Local Law 121 and the other requirements of the Charter, and to allow as many restaurants to be up and running by April 1st as possible, DOT issued conditional approvals to restaurants applying to operate a roadway cafe that had already gone through DOT review, community board review, and had a public hearing. Thanks to this effort, the vast majority of restaurants that applied for a roadway cafe by the August 3, 2024 deadline were approved to operate. In addition, all restaurants that applied for a sidewalk cafe prior to the August 3rd deadline have been allowed to operate.

We are thrilled that outdoor dining is now a permanent part of the city's streetscape and we want to work with the Council to make this program as successful as possible. This includes listening to the concerns of restaurants about how to expand participation and to make the application process faster and easier.

We are just over three weeks into the first Dining Out NYC season, so I am sure there will be more lessons learned and additional feedback to consider. We look forward to discussing lessons from this first season with the Council and other stakeholders so we can work together to make outdoor dining a success for many years to come.

Thank you for the opportunity to testify before you today. We now welcome any questions.