



# PERMANENT OPEN RESTAURANTS

SUMMER 2021

# Permanent Open Restaurants

- New program under DOT to include both sidewalk and roadway cafes
- Program that balances all needs of the street and sidewalk
- Use what has worked under Sidewalk Café Program and Emergency Open Restaurant Program to develop guidelines for the Permanent Program

# Pre-COVID Street and Sidewalk Cafés

1,022 Sidewalk Cafes



100 Small Sidewalk Cafes



102 Enclosed Cafés



25 Street Seats



# Creation of the Emergency Open Restaurants Program

During the summer of 2020, New York City revisited its rules, and in many cases suspended them to allow restaurants to serve diners outdoors due to restrictions on indoor dining

The emergency program:

- Helped save almost 11,000 restaurants and an estimated 100,000 jobs by allowing establishments to continue serving outdoors, on the roadway, sidewalk, or both
- Is a lifeline, not a goldmine
- Did not require a participation fee
- Eliminated lengthy design review process



# What We've Learned in the Emergency Program:

## Successes

- All areas of the city eligible
- Program easy to access, encouraging participation
- With addition of roadway seating, more options for restaurants

## Challenges

- Clarity, consistency and communication of rules
- Maintaining emergency vehicle access and ensuring signage not being blocked
- Balancing enforcement with recovery
- Balancing the long-term interests of all sidewalk and street users



# Background

- After thousands of restaurants self-certified to join the program, the Mayor announced in September 2020 that Open Restaurants would be permanent
- In October 2020, City Council voted to establish a permanent outdoor dining program (48 voted for; 2 against; 1 abstained)
- A permanent program requires a series of different legal changes, including a text amendment to allow more areas of the city to be eligible for roadway and sidewalk seating
- The permanent program will retain the elements of the emergency program that worked and modifying the ones that didn't

## De Blasio: NYC Outdoor Dining Will Become "Permanent And Year-Round"

BY [BEN YAKAS](#)

SEPT. 25, 2020 12:15 P.M. • [242 COMMENTS](#)



SCOTT LYNCH/GOTHAMIST

## Vision for a Permanent Program:

- Both Sidewalk & Roadway seating administered by DOT
- Interagency coordination on enforcement issues
  - DOT will enforce barriers, clear paths, ADA compliance
  - NYPD will continue to enforce noise
  - DSNY will continue to be responsible for garbage removal
- Available throughout city
- Stricter sidewalk clear path & roadway siting criteria



# Components of Sidewalk Café Seating

- All restaurants with ground floor space eligible to apply for year-round access
- Must be ADA compliant
- Subject to clear path and siting criteria/distance from obstructions, based on pedestrian levels and sidewalk widths
- Removable tables, chairs, and barriers
- Seating against building wall
- Only in restaurant's frontage



Removable tables & chairs

Removable barriers

Seating against building wall



## Components of Roadway Café Seating

- Setups allowed citywide in parking lanes except in prohibited zones
- Maintain public safety (visibility of traffic safety signs, access to hydrants, etc.)
- Clear guidance and enforcement on sound
- ADA compliance
- No fully enclosed structures
- Fee structure being proposed

Visual connection for drivers to pedestrians & signage

Sturdy barriers on all three sides of seating

Removable table & chairs

Open to sidewalk

Provide Accessible seating

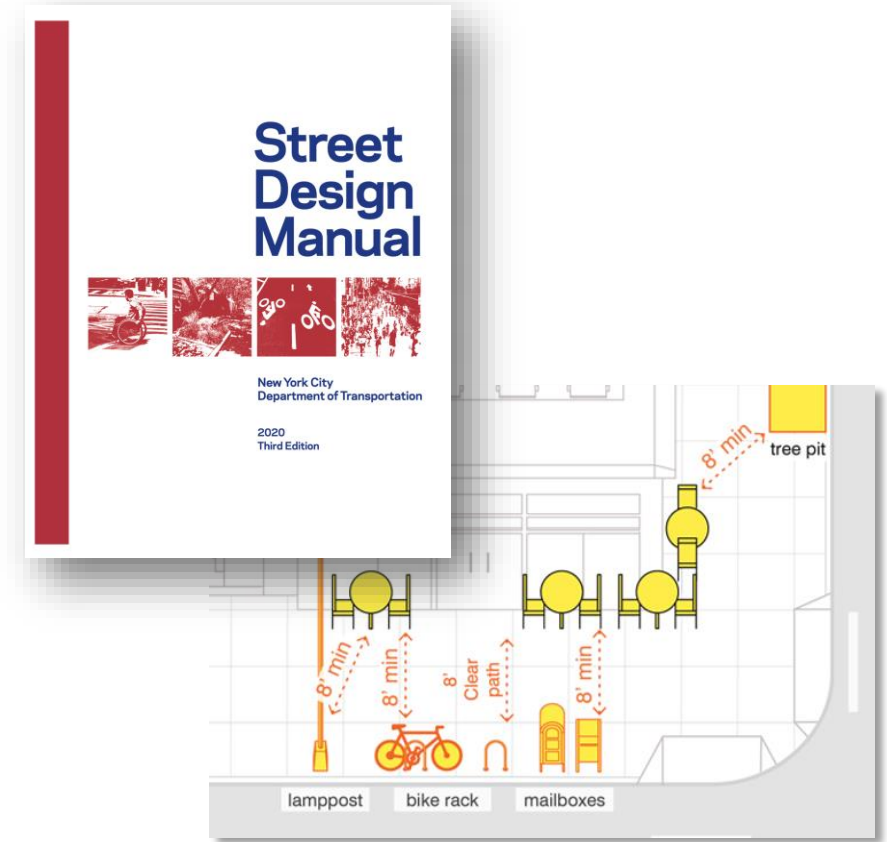
# Seasonality

- Allow other city operational needs to continue (e.g.: snow cleanup of streets and sidewalks)
- Safety considerations regarding seasonality (outdoor heaters needed in colder seasons)
- Options are being explored for waiver that allows for winter months



# Application & Administration

- Unified DOT Office overseeing sidewalk and roadway café programs
- More detailed, upfront design guidance package with detailed visuals
- Streamlined application process with online filing
- Shorter than pre-Covid review periods, while retaining required public reviews
- 4-year license windows with periodic compliance checks & ability to fine or remove bad actors



# 3 main actions are needed to facilitate the future program:

1

## Removal of Locational Prohibitions

Via Zoning Text Amendment

- Expand universe of allowed geographies for sidewalk cafes
- Remove other zoning text that enables sidewalk cafes
- Grandfather existing enclosed cafes

2

## Changes to the Sidewalk Café Program

Via Local Law & CAPA

- Transfer control of sidewalk cafes from DCWP to DOT, enabling a unified program
- Revise design requirements and streamline lengthy design review
- Create new clear path requirements and waivers to protect pedestrian right of way

3

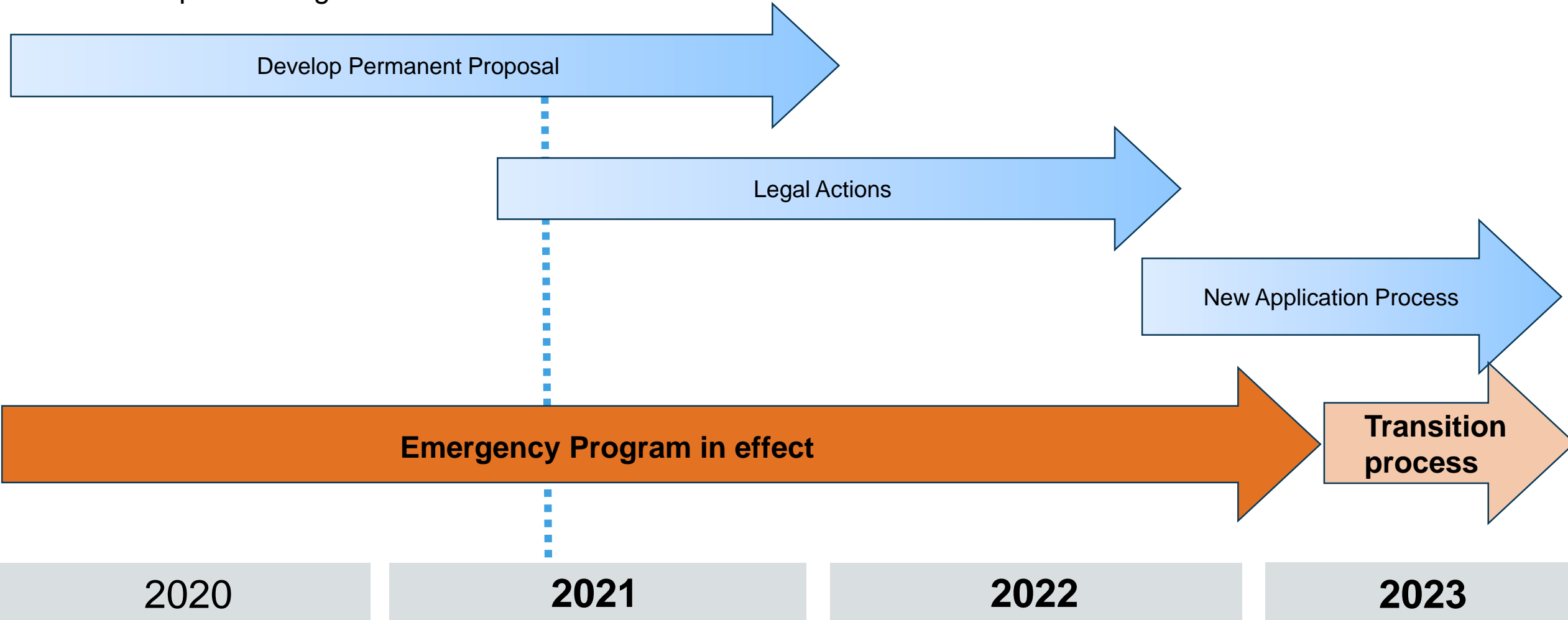
## Creation of a Roadway Café program

Via Local Law & CAPA

- Establish siting rules, guidelines, fee structure, and application review process for new program

# Multiple legal steps will be needed to enact the full permanent program:

The emergency program expected to remain in effect and allow restaurants to maintain their spaces uninterrupted through at least winter 2022



**New York City, including its restaurants, is still recovering.**

**COVID-19 has helped reimagine the way New Yorkers utilize our streets and curb space.**

**DOT welcomes public input: [nyc.gov/openrestaurants](https://nyc.gov/openrestaurants)**



THANK YOU

[WWW.NYC.GOV/OPENRESTAURANTS](http://WWW.NYC.GOV/OPENRESTAURANTS)



# PERMANENT OPEN RESTAURANTS TEXT AMENDMENT





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# Zoning Proposal

- Deleting ZR, Article 1, Chapter 4 in its entirety – effectively removing all zoning locations restrictions on sidewalk cafes;
- Removing any language that prevents sidewalk cafes in Special Districts;
- Removing rules around enclosures, operable windows, sidewalk widenings, that would preclude or limit outdoor dining under the Open Restaurants program
- Other definitional/reference cleanup to enable the above.

**How this will affect Sidewalk Cafes:** Allows any restaurant anywhere in city can potentially apply to DOT for a sidewalk café, based on its sidewalk conditions

# Background: 27,000 Restaurants in NYC (as of March 2020)



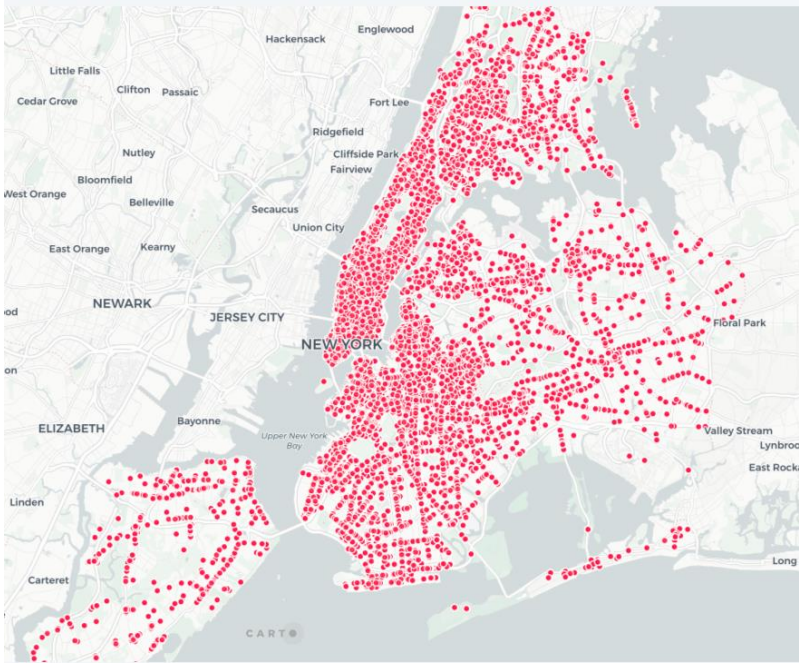
Juniors, Brooklyn. Photo Credit: NYMag



Goodfellas, Staten Island Photo Credit: unknown



Casa Enrique, Queens. Photo Credit: unknown



Neerob, Bronx. Photo Credit: NYTimes



'Jing Fong' in Chinatown,. Photo Credit: Business Insider

# Background: History of Sidewalk Café in NYC



All sidewalk cafes to get a revocable consent & go through ULURP

**1976**

streamline application process, Article Chap. 4 created to replace ULURP process

- Additional amendments each time a Special District was added

Addition of Small Cafés

**2003**

Emergency Covid Response & temporary program

Timeline

1970

1980

1990

2000

2010

2020



# Pre-COVID: Eligible Sidewalk Café Locations

## Unenclosed Sidewalk Café



- 8' clear path, or 50% of sidewalk
- Max 2'-3' fence or barrier
- Siting Criteria from street infrastructure
- Any furniture or shading must be removable

## Small Unenclosed Café



- Located in higher volume areas
- 4'-6" depth for café space

## Enclosed Sidewalk Café



- 8' clear path, or 50% of sidewalk
- Requires 50% of wall to be transparent
- Distance from other enclosed cafes must be 15' to 40'

# Pre-COVID: Eligible Sidewalk Café Locations

## Small Only



## Unenclosed Only



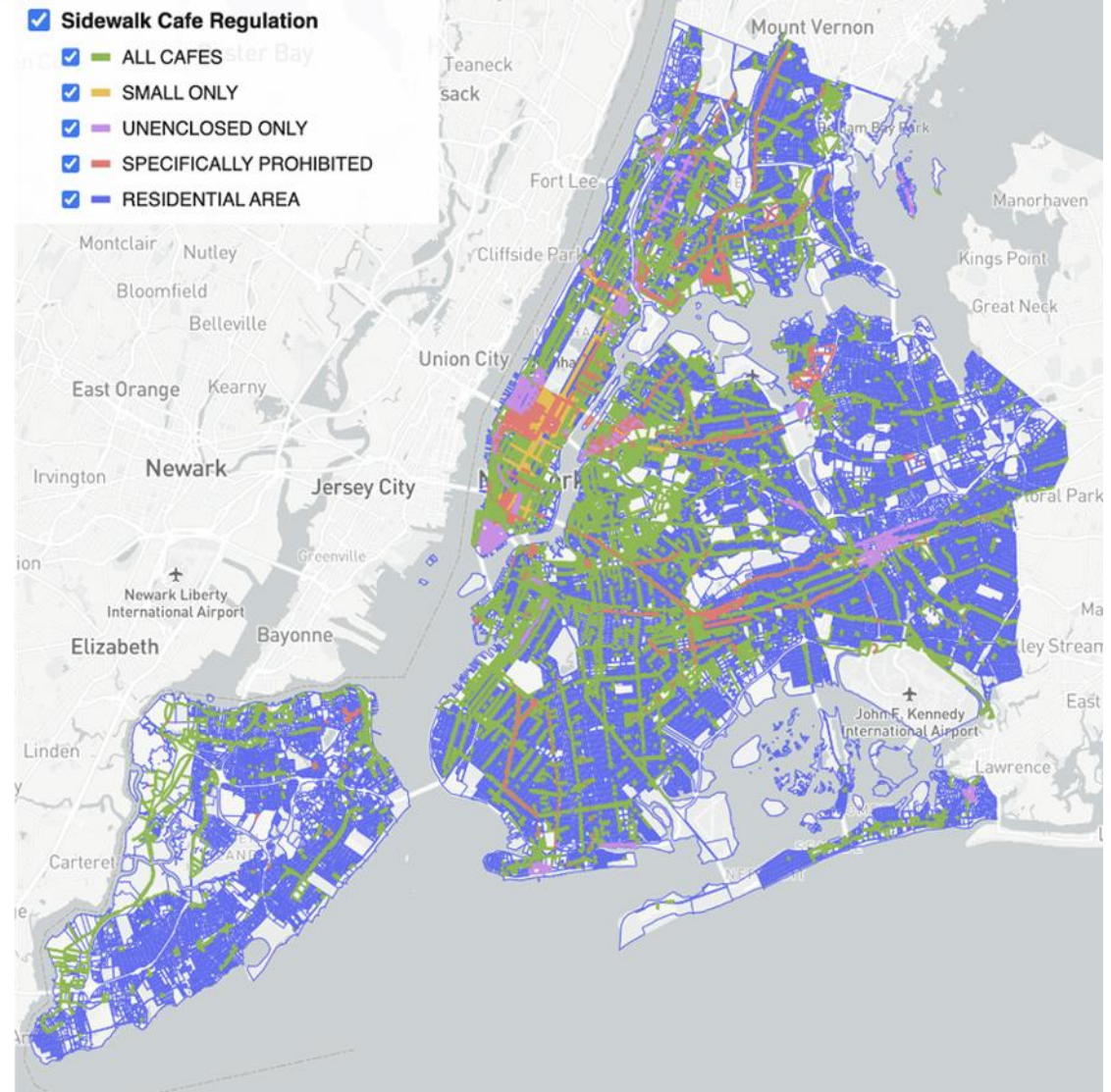
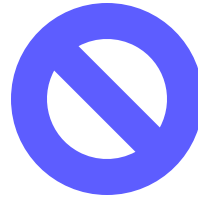
## All Cafés



## Specifically Prohibited



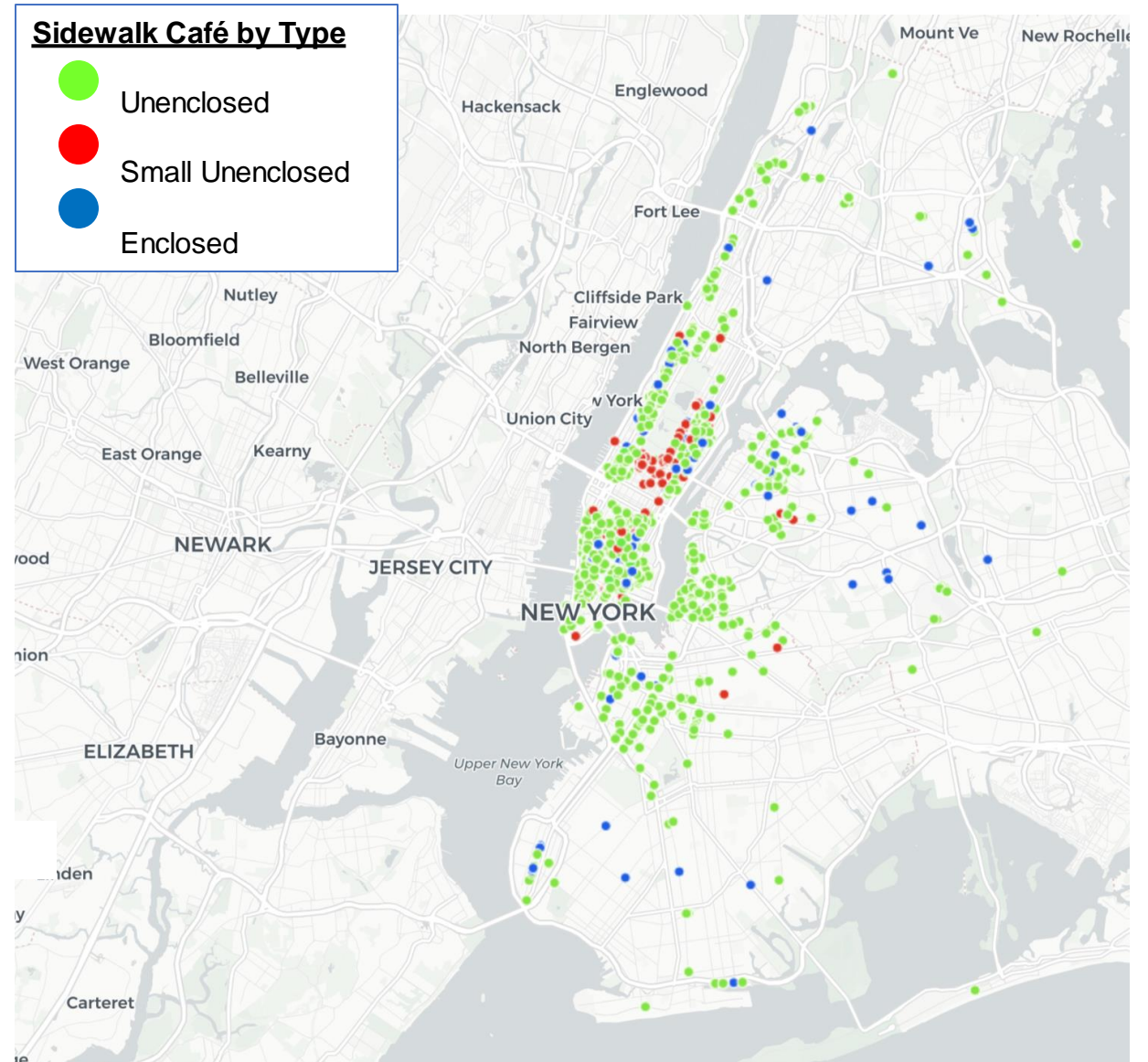
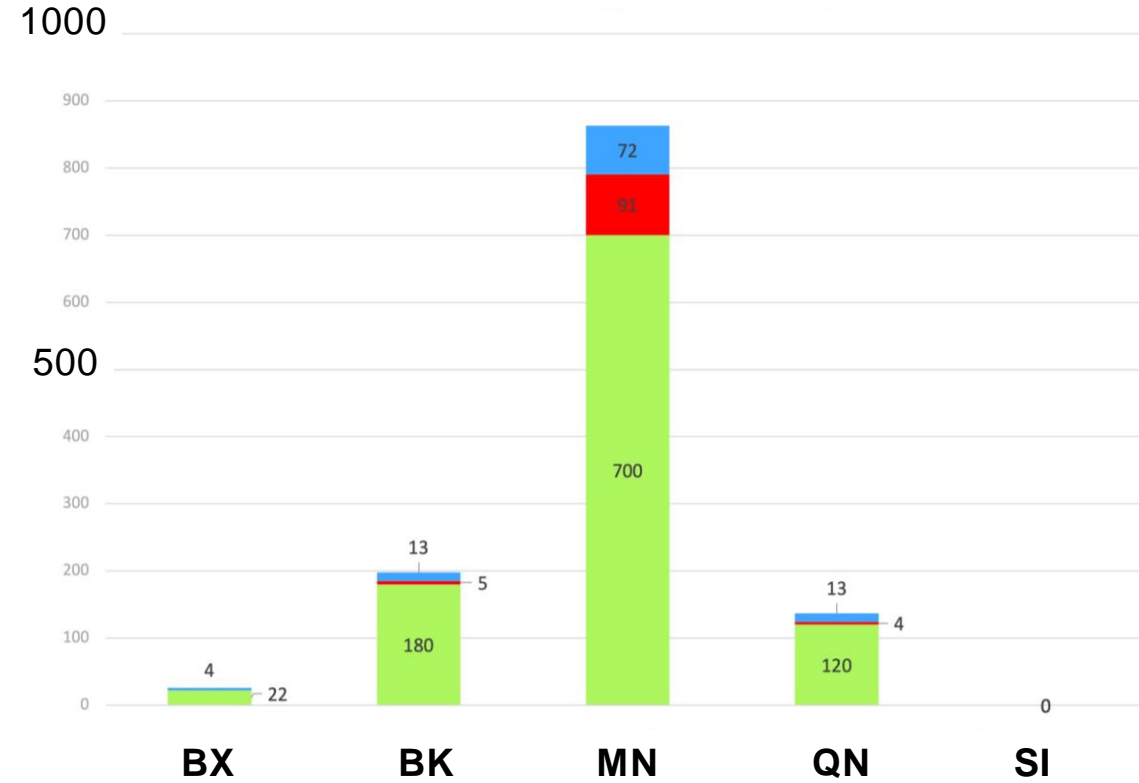
## Residential Areas



Visit the details at [zola.planning.nyc.gov](https://zola.planning.nyc.gov)

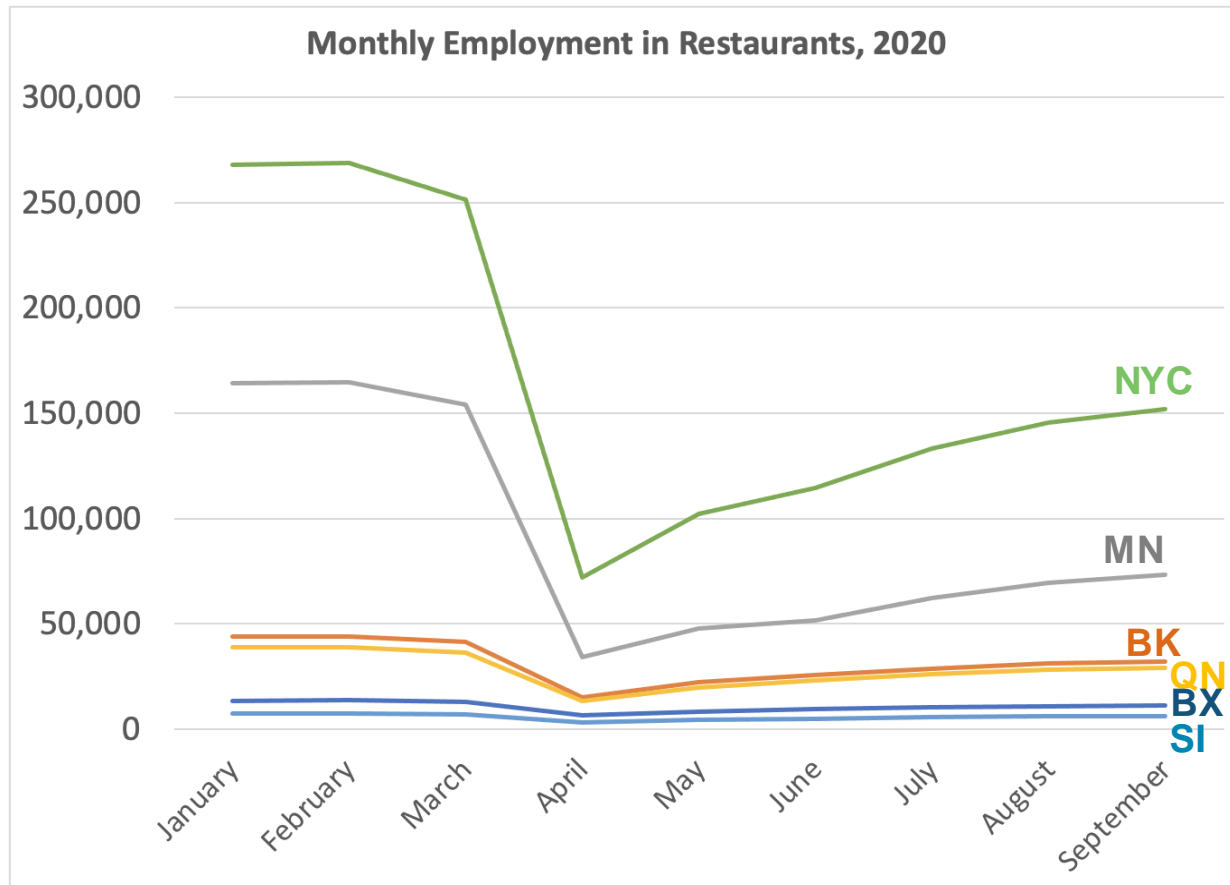
# Pre-COVID: Sidewalk Café Locations

## Sidewalk Café type per Borough



# COVID-19 Pandemic and the Effect on the NYC Restaurant Industry

Employment in the sector dropped a total of **64%** from Q1 2020 to Q2 2020, with losses concentrated in Manhattan



Photograph: @stuffbeneats

**60 notable NYC restaurants and bars that permanently closed over the last year**



# Suspension of Zoning & Dining Rules to allow Open Restaurants

Executive Order 126, in effect as of June 18th 2020, suspended:

- All Zoning Resolution text related to sidewalk café regulations and facilitating outdoor dining
- Admin Code rules requiring application and procedures to obtain outdoor café licenses through DCWP
- Street sweeping rules and other associated street rules to allow roadway dining

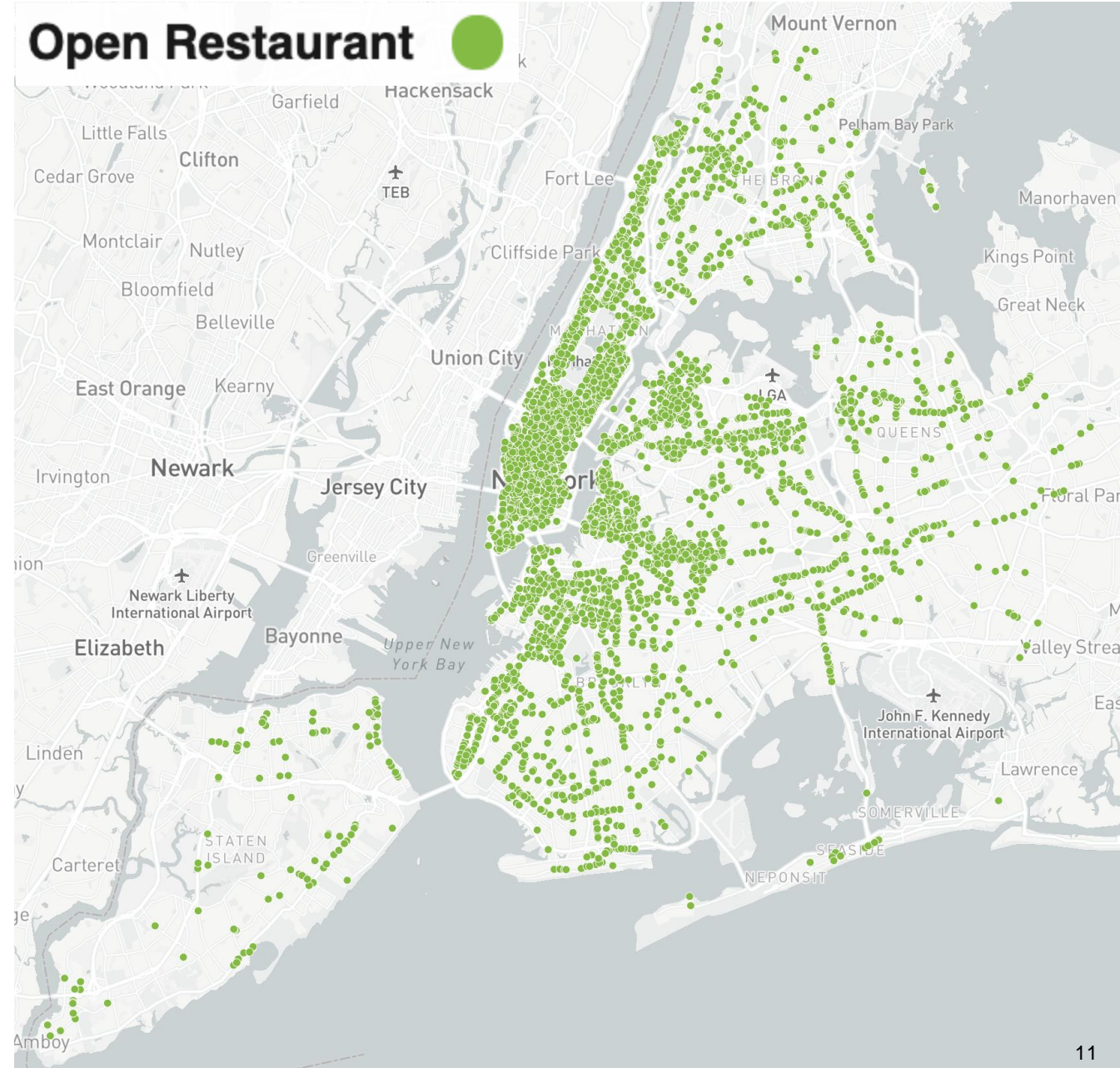
<https://www1.nyc.gov/assets/home/download/s/pdf/executive-orders/2020/eo-126.pdf>



# Citywide use of Open Restaurants

## KEY STATS

- **11,500** Restaurants participated
- Including **5,920** Restaurants outside Manhattan
- **10,000** Restaurants used the sidewalk



# Emergency Open Restaurant Program

**"It has been a lifesaver,"** said Peter Madonia, the chairman of the Belmont Business Improvement District, who expects most of the restaurants to continue to offer outdoor dining in the winter and beyond.

**"It was a game changer for us in terms of making sure the fabric of our community – the restaurants and retail stores – are vibrant again."**

- NY Times quote September 2021



# Sidewalk Cafes are limited by Zoning

- In 2020, over 2,500 restaurants participated in outdoor dining that would not have been eligible or limited in some way.
- The Zoning proposal will allow for sidewalk cafes in these areas if they can meet the sidewalk conditions.

## Sidewalk Cafes are limited by zoning if:



### Specifically Prohibited

Certain special districts  
Commercial mid-blocks  
Under elevated rail lines  
Other high traffic areas

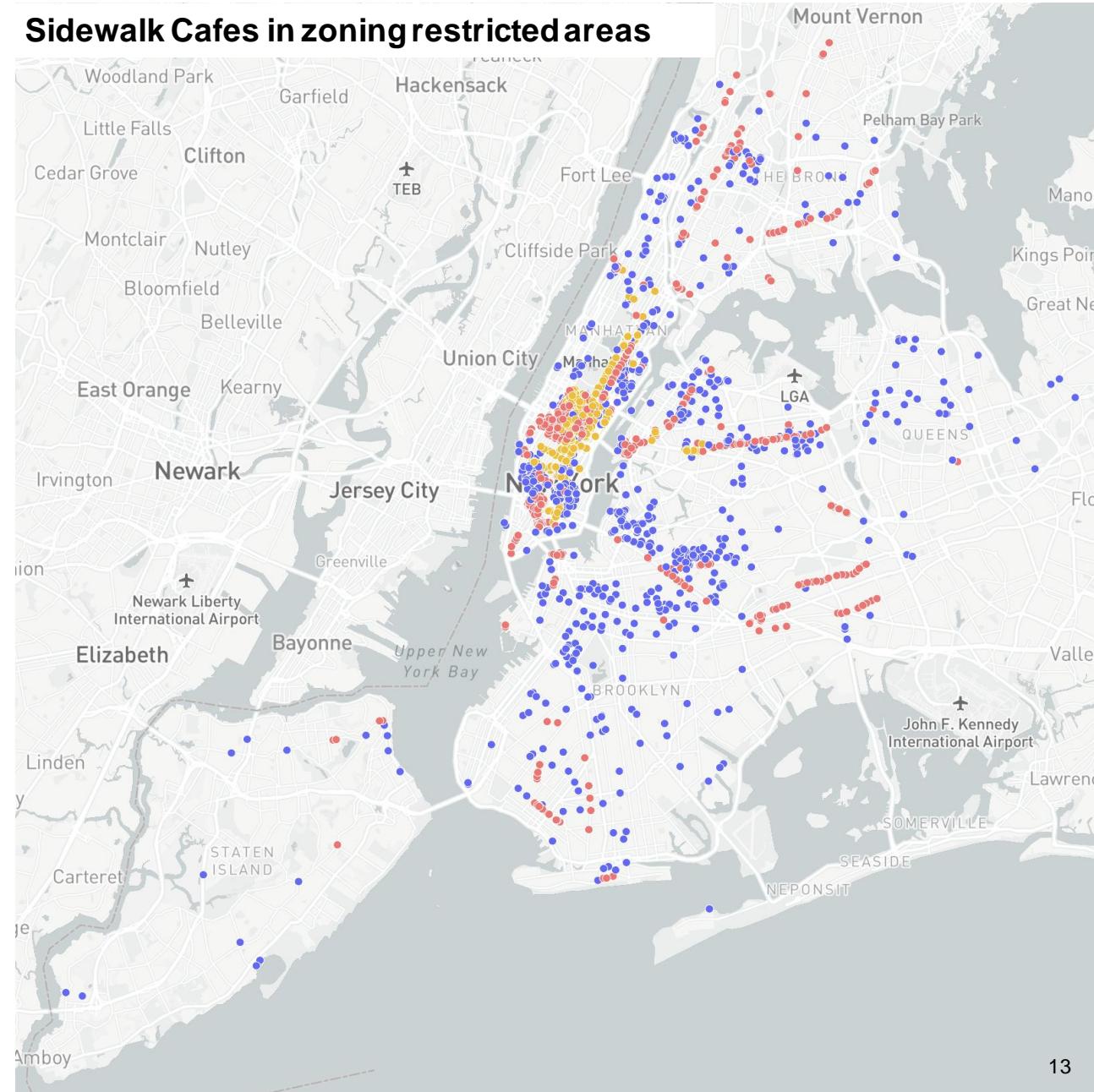


### Restaurants in residential districts that pre-date zoning



### Limited by small café designation

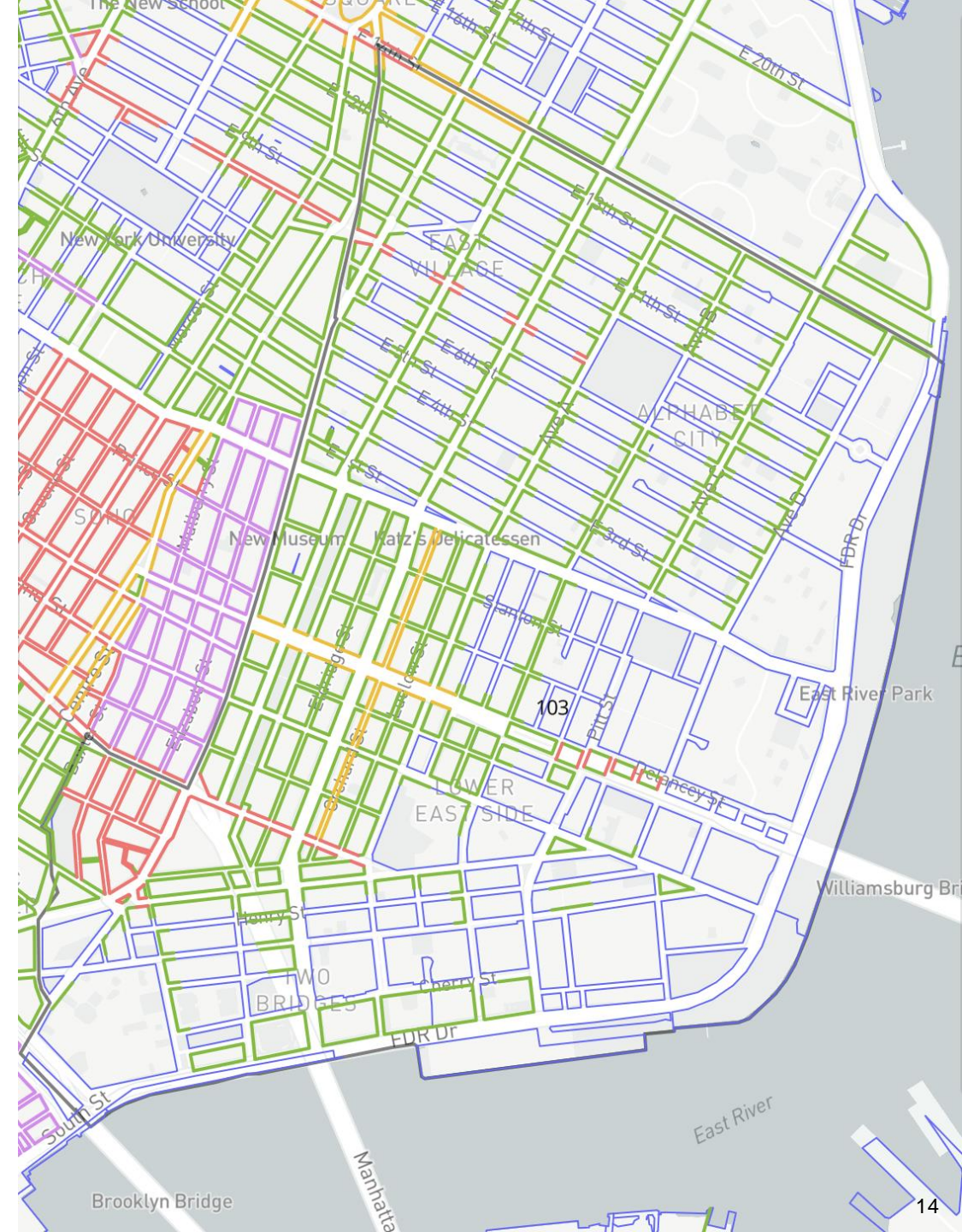
## Sidewalk Cafes in zoning restricted areas



# Community Board 3 Context

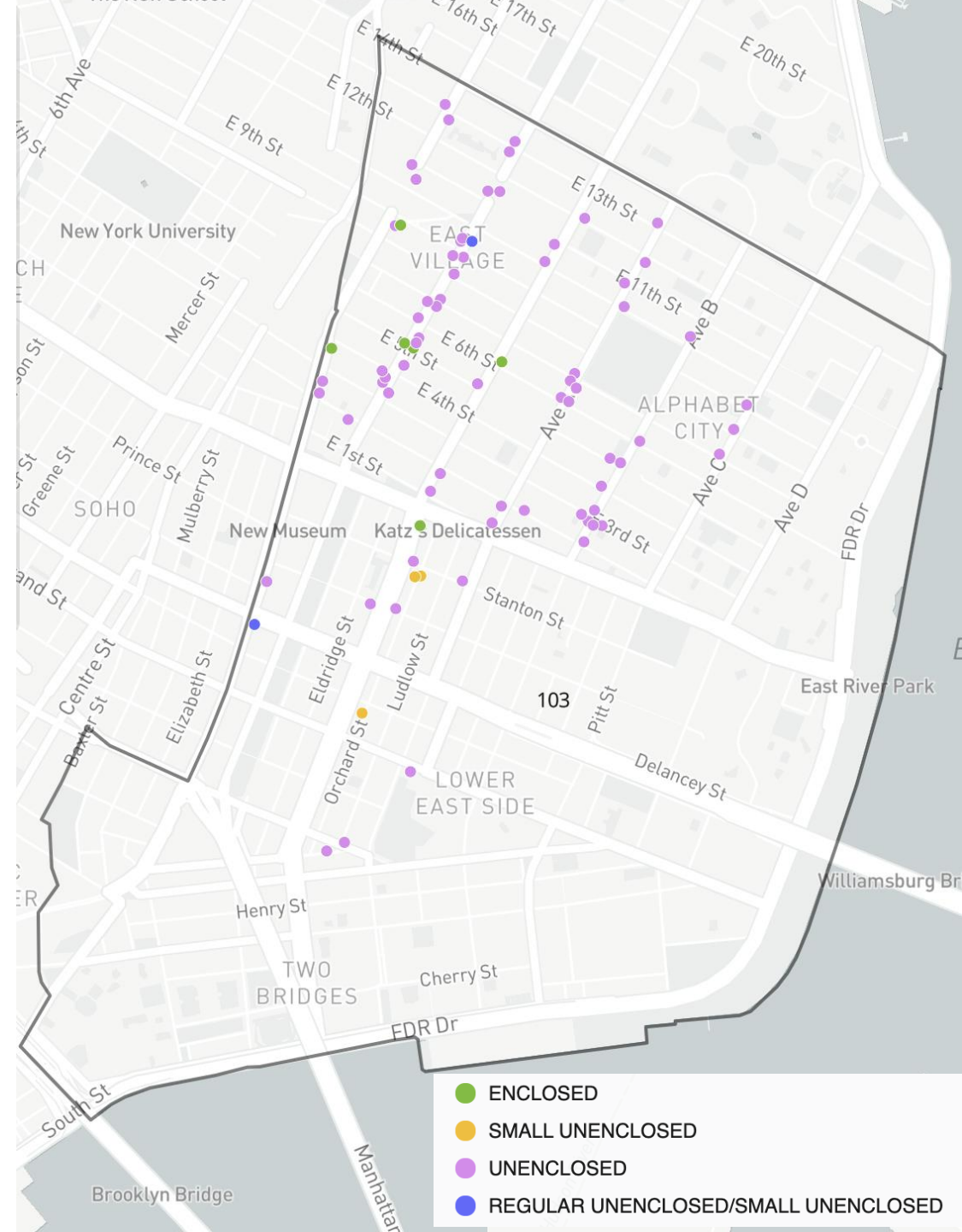
- ALL CAFES
- SMALL ONLY
- UNENCLOSED ONLY
- SPECIFICALLY PROHIBITED
- RESIDENTIAL AREA

- All Cafes available in areas in Green, which include most commercial avenues of the district
- Residential areas and Chinatown prohibited cafes



# Community Board 3 Context

80 Pre-Covid Sidewalk Cafes Licensed by DCWP  
As of 2019



# Open Restaurants in CB 3:

## Sidewalk Open Restaurants by Existing Regulation

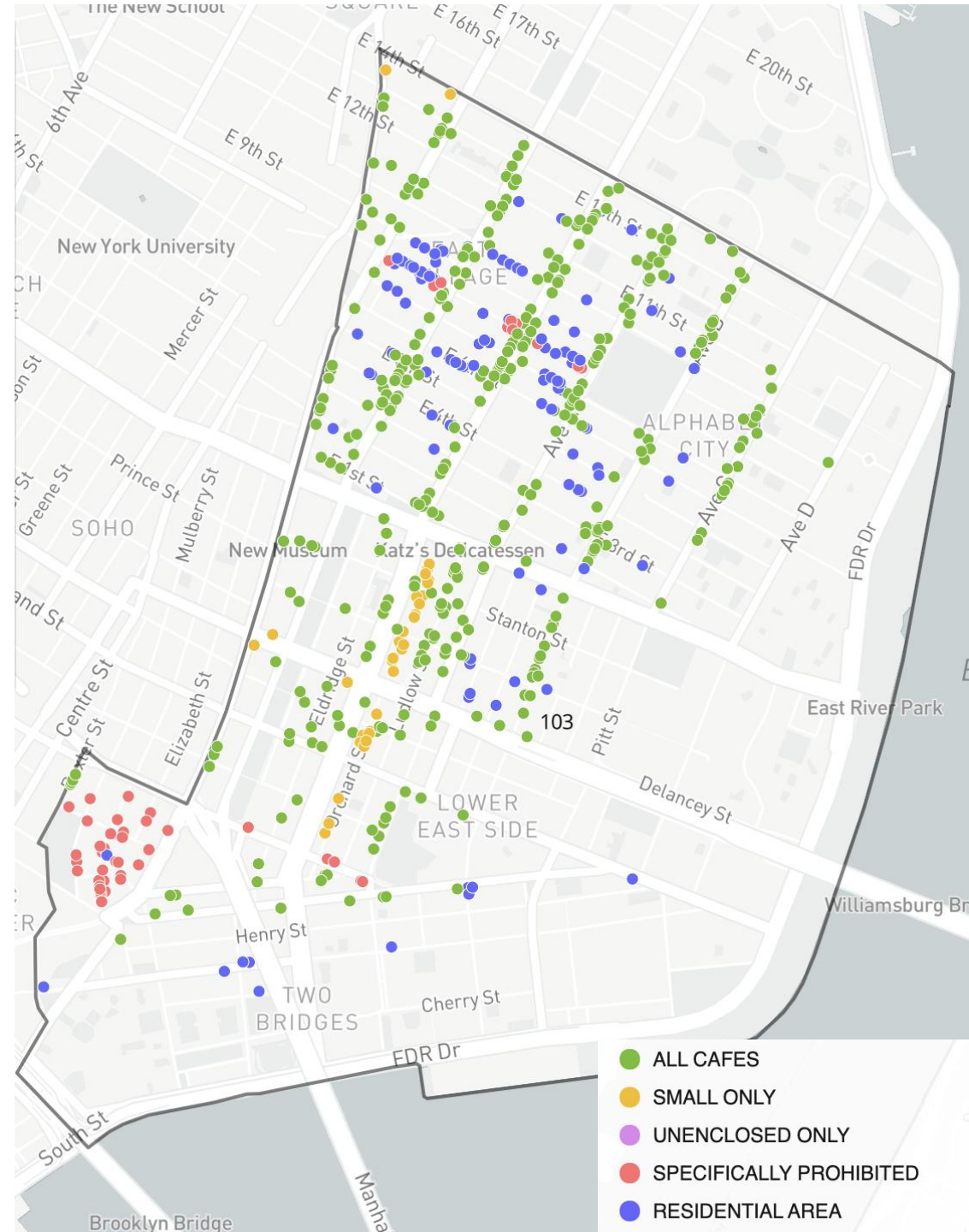
All Cafes: 443

Small Only: 40

Unenclosed Only: 0

Specifically Prohibited: 57

Residential Area: 134



# Other Zoning Text Technical Cleanup

1. Definitions and Cross references
2. Removing text that precludes operable windows that service outdoor restaurants
3. Removing enclosure provisions in certain text
4. Clarifying sidewalk widening text to ensure no conflict with Open Restaurants



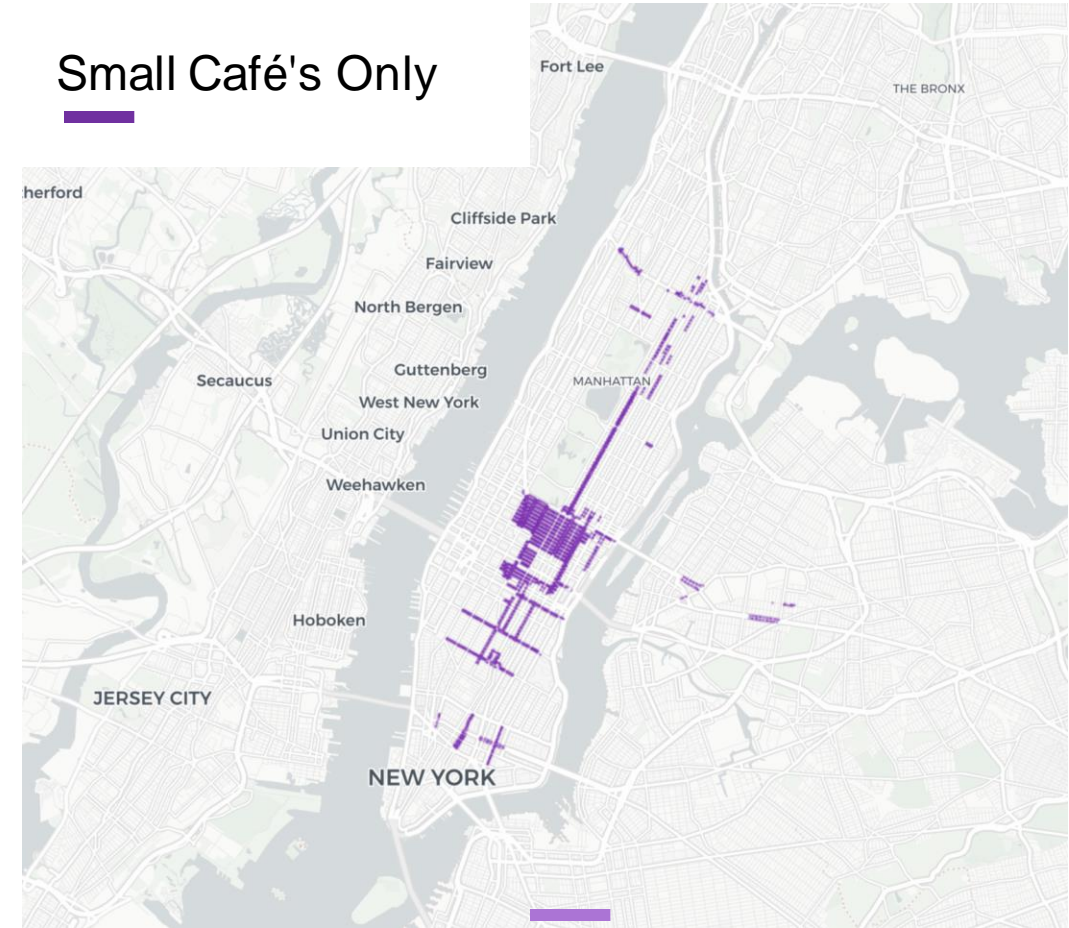


# Simplifying Café Types: Small Cafes



*Osteria Laguna, Midtown East Manhattan*

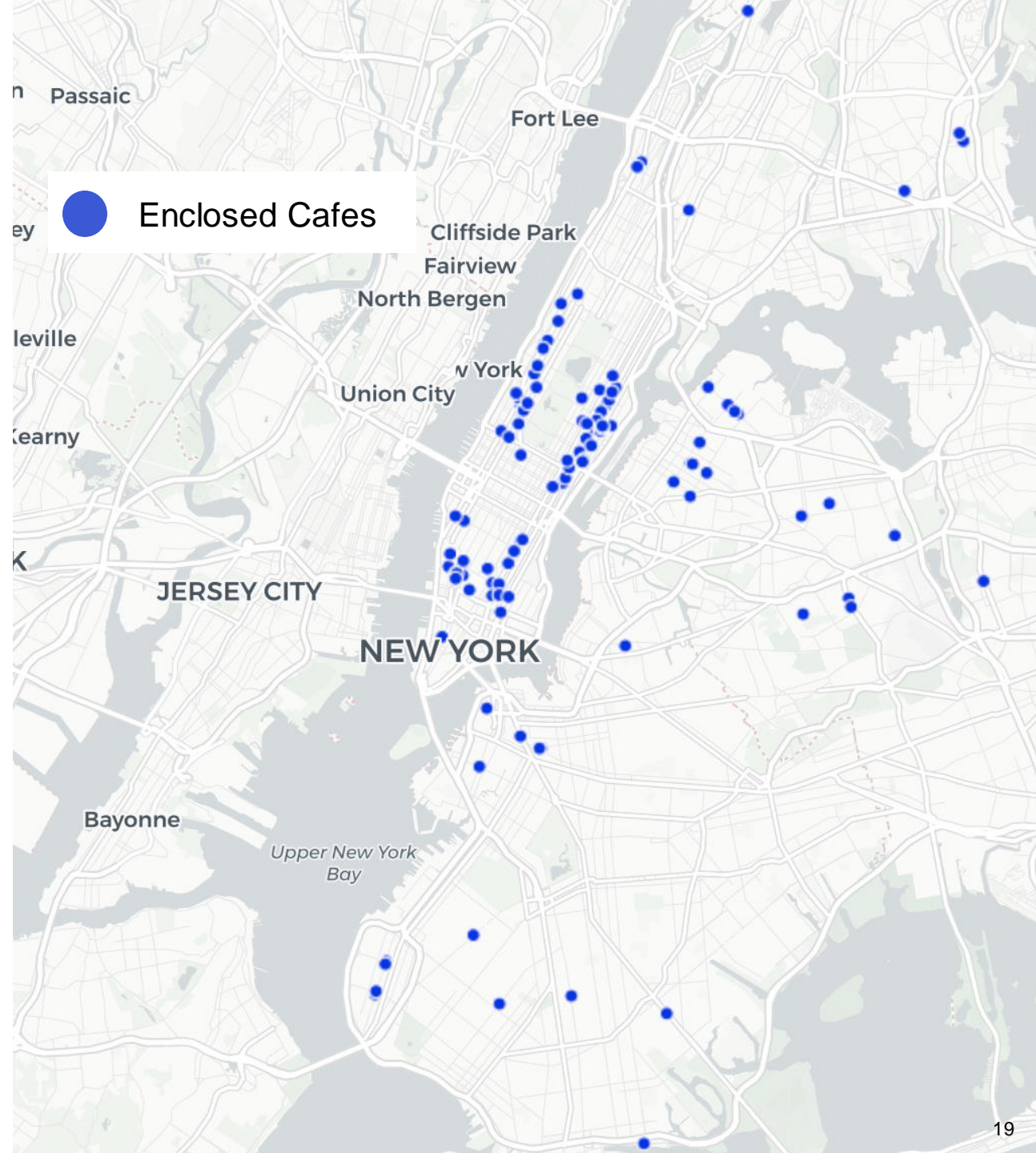
Areas where small cafes only were allowed:



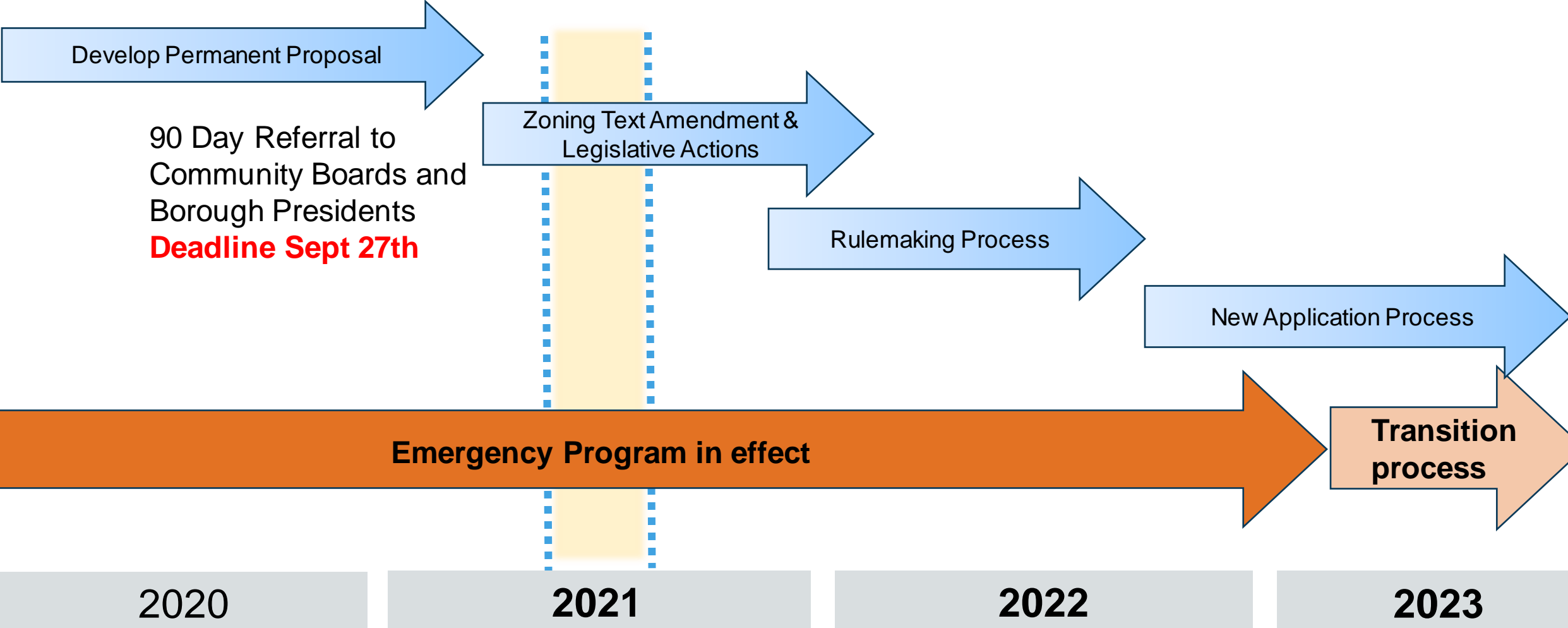
# Simplifying Café Types: Enclosed Cafes



West Side Restaurant, UWS Manhattan



**Multiple legal steps will be needed to enact the full permanent program – with the emergency program remaining in effect and allowing restaurants to maintain their spaces uninterrupted through at least winter 2022**



# Questions

