

TECHNICAL MEMORANDUM 003
PROPOSED CITY COUNCIL LEGISLATION
PERMANENT OPEN RESTAURANTS PROGRAM
CEQR No. 21DOT016Y
ULURP No.: N210434 ZRY
August 12, 2026

A. INTRODUCTION

The New York City Council (“City Council”) approved zoning text amendments in February 2022 to facilitate the implementation of the City’s Permanent Outdoor Restaurant Program (“POR Program”), referred to now as Dining Out NYC (the “DONYC Program”), an action that required the discretionary approval of the New York City Planning Commission and City Council. These actions were subject to the City’s Uniform Land Use Review Procedure (“ULURP”) as well as the New York State Environmental Quality Review Act (“SEQR”) and New York City Environmental Quality Review processes (collectively “CEQR”). An Environmental Assessment Statement (“EAS”) under CEQR procedures was therefore prepared by the New York City Department of Transportation (“NYC DOT”), which resulted in a Negative Declaration on June 18, 2021, that stated that “the [POR Program] would not have a significant adverse impact on the environment.”

Following the adoption of the zoning text amendments, the City Council enacted legislation, Local Law 121 of 2023 (“Local Law 121”), to amend the New York City Charter and the New York City Administrative Code (“Administrative Code”) in order to implement the proposed DONYC Program. Prior to the enactment of Local Law 121, a technical memorandum was prepared in July 2023 (“TM 001”) to examine whether the enactment of Local Law 121 would change the findings of the EAS and conclusions of the Negative Declaration. TM 001 concluded that since the changes to the DONYC Program proposed by Local Law 121 would not alter the development and operational assumptions in the Reasonable Worst Case Development Scenario (“RWCDs”) evaluated in the EAS, it would not change the conclusions of the EAS and Negative Declaration.

In accordance with Local Law 121, NYC DOT proposed rules relating to the DONYC Program (“DONYC Rules”). In January 2024, prior to NYC DOT’s adoption of the DONYC Rules, a second technical memorandum was prepared (“TM 002”) which also found that NYC DOT’s adoption of the DONYC Rules, to the extent they modified the DONYC Program, would not result in any significant adverse environmental impacts and that the conclusions of the EAS and Negative Declaration were not changed.

Following the first year of implementation of the DONYC Program, the City Council has proposed several bills (collectively, the “Proposed Legislation”) to amend the Administrative Code to:

- create a new subcategory of roadway cafe, a “year-round roadway cafe,” that would not be subject to seasonal restrictions on roadway cafe operation and set forth the processes by which restaurants may petition to operate such a cafe;
- create a subcategory of roadway cafe, a “seasonal roadway cafe” subject to seasonal operating restrictions (April 1-November 29);
- authorize NYC DOT to promulgate rules regarding the design and operation of year-round roadway cafes;
- permit year-round roadway cafes and sidewalk cafes to use readily removable vertical winterization coverings during the winter operating season (November 30 – March 31) and vertical protective coverings that NYC DOT determines may be warranted at other times, as

- would be set forth in NYC DOT rules;
- authorize the New York City Department of Sanitation (“DSNY”) to promulgate rules regarding roadway cafe cleanliness and snow removal;
- codify the 15-foot emergency travel lane requirement and provide that NYC DOT may permit an emergency travel lane of less than 15 feet on a roadway where such emergency travel lane is consistent with public safety, in accordance with NYC DOT rules;
- reduce the latest permitted operating hours that NYC DOT may authorize in the DONYC Rules from midnight to 11:00 p.m. daily; and
- prohibit NYC DOT from authorizing a roadway cafe to use any portion of the roadway for storage or any other purpose other than serving customers.

These modifications differ from certain assumptions of the POR Program that were defined and analyzed in the EAS and subsequent technical memoranda. The purpose of this memorandum, in addition to outlining the Proposed Legislation, is to determine if the Proposed Legislation will alter the development and operational assumptions in the RWCDs and potential for impacts evaluated in the EAS.

The RWCDs conservatively assumed that 10,000 restaurants would participate in the first year of operation of the POR Program. As of July 31, 2026, there are 4,627 restaurant applications to participate in the DONYC Program. Even if all these applications were approved, it would be less than half the number of cafes analyzed in the RWCDs.¹ Although the Proposed Legislation may increase overall restaurant participation, even with an increase in restaurant participation, the available participation data indicates that DONYC Program participation will likely remain well below the RWCDs assumption of 10,000 restaurants.

This Technical Memorandum outlines the Proposed Legislation, analyzes whether the Proposed Legislation would alter the RWCDs development and operational assumptions used previously to evaluate the POR Program in the EAS, TM 001, and TM 002, and concludes that the Proposed Legislation does not alter the RWCDs or the previous operational assumptions. Therefore, the conclusions of the EAS, the Negative Declaration, and the subsequent technical memoranda, can be considered in comparison to the program changes proposed in the Proposed Legislation. Additionally, this Technical Memorandum determines, as set forth below, that any analytical changes related to time or updates to the CEQR Technical Manual will not meaningfully change the results of the EAS such that it would affect any of its findings or alter the previously issued Negative Declaration or subsequent technical memoranda. Therefore, this Technical Memorandum concludes that the City Council adopting the Proposed Legislation would not result in any significant adverse environmental effects and therefore does not require further examination or analysis.

B. DESCRIPTION OF THE PROPOSED CITY COUNCIL LEGISLATION

The following is a summary of the provisions of the Proposed Legislation:

ADMINISTRATIVE CODE MODIFICATIONS

ESTABLISH YEAR-ROUND ROADWAY CAFES

The Proposed Legislation adds and modifies definitions related to the DONYC Program:

- A definition of “seasonal roadway cafe” and “year-round roadway cafe” would be added to create two subcategories of roadway cafes. Seasonal roadway cafes would only be

¹ As of July 31, 2026, there have been 4,627 applications, which is 54% lower than the 10,000 number assumed in the RWCDs. The July 31, 2026, number of applications includes 3,029 sidewalk cafes, and 1,598 roadway cafes. 1,844 Dining Out NYC licenses have been issued to operate a sidewalk or roadway cafe.

authorized to operate between April 1 and November 29 each year, while year-round roadway cafes would be authorized to operate year-round.

- An “existing roadway cafe” definition would be added to include roadway cafes operating on August 15, 2026 that have been granted a revocable consent by NYC DOT, or a roadway cafe granted such a revocable consent after such date but for which a public hearing pursuant to section 371 of the charter for such roadway cafe to operate other than as a year-round roadway cafe has been held prior to November 29, 2026.

The Proposed Legislation provides an exception to the requirement that sidewalk and roadway cafes be “open-air” by providing that between November 30 to March 31 sidewalk and roadway cafes may, in accordance with NYC DOT rules, equip the cafe with a vertical winterization covering that may be attached to an overhead covering. NYC DOT may also promulgate rules to allow the use of readily removable vertical protective coverings and overhead coverings during other times of the year that NYC DOT determines may be warranted.

Additionally, for sidewalk cafes, the Proposed Legislation provides that between November 30 to March 31, a readily removable winterization covering may be attached to an overhead covering or to an awning, either of which may be affixed to a building, provided that such overhead covering or awning complies with the requirements for an awning in the New York City construction codes and any requirement of the New York City Landmarks Preservation Commission, as applicable.

The DONYC Rules provide for the design requirements for sidewalk cafes and roadway cafes. For roadway cafes, the DONYC Rules currently require barriers and allow for flooring, overhead coverings, and vertical screening on the side of a roadway cafe that faces the vehicle travel lane, in addition to furnishings and other decorative items. For sidewalk cafes, perimeter demarcations, subject to certain dimensional restrictions, are required, and overhead coverings and awnings that may attach to the building are allowed, in addition to furnishings and other decorative items.

The Proposed Legislation provides for a separate license for a year-round roadway cafe and a seasonal roadway cafe, both of which would have a license fee of \$1,050. For existing roadway cafes, the Proposed Legislation provides an opportunity for existing roadway cafes to obtain an interim license for year-round operation. An existing roadway cafe would need to apply through NYC DOT’s website and would be subject to a \$630 interim license fee. The interim license may be renewed each year for the remainder of the existing roadway cafe’s revocable consent term to continue year-round operation.

The Proposed Legislation also establishes different annual revocable consent rates for seasonal roadway cafes and year-round roadway cafes. The annual revocable consent rates for seasonal roadway cafes and existing roadway cafes would remain the same as the annual revocable consent rates for roadway cafes pursuant to Local Law 121. However, the annual revocable consent rates for year-round roadway cafes would be increased to match the annual revocable consent rates for sidewalk cafes, which are already authorized to operate year-round.

The Proposed Legislation also provides NYC DOT with authority to prescribe separate forms and procedures for the review of a petition for a year-round roadway cafe where the applicant already has been granted a roadway cafe license and revocable consent and where the applicant has been granted an interim license for the year-round operation of an existing roadway cafe.

The existing DONYC program only authorizes 8 months of roadway cafe operation (from April 1 to November 29).

NYC DOT RULEMAKING

The Proposed Legislation authorizes NYC DOT to promulgate rules relating to standards specific

to year-round roadway cafes, including winterization standards and requirements for snow removal.

The Proposed Legislation prohibits NYC DOT from promulgating rules allowing a roadway cafe to be used for storage or any other purpose other than serving customers during operating hours. The Proposed Legislation modifies the permitted hours of operation for both roadway and sidewalk cafes. Currently sidewalk and roadway cafes may operate from 8:00 a.m. to midnight, except on Sundays, when operation may begin at 10:00 a.m. The Proposed Legislation would reduce the latest permitted operating hours that NYC DOT may authorize in the DONYC Rules from midnight to 11:00 p.m. daily.

AUTHORIZING DSNY TO PROMULGATE DONYC RULES

The Proposed Legislation authorizes DSNY to promulgate rules, in consultation with NYC DOT, regarding roadway cafe cleanliness and snow removal that participants of DONYC will be required to adhere to.

15-FOOT EMERGENCY TRAVEL LANE

The DONYC Rules currently require that a roadway cafe maintain a 15-foot emergency travel lane on every roadway. NYC DOT may permit an emergency travel lane width of less than 15 feet on a roadway upon the issuance of a letter of no objection by FDNY. If NYC DOT does not receive a letter of no objection or a letter denying the request from FDNY within 30 days of the request, NYC DOT may, in its discretion, permit an emergency travel lane of less than 15 feet on such roadway.

The Proposed Legislation would provide that a 15-foot emergency travel lane shall be maintained on any roadway where NYC DOT has granted a consent for a roadway cafe, provided that NYC DOT may permit an emergency travel lane of less than 15 feet on a roadway where such emergency travel lane is consistent with public safety, in accordance with existing NYC DOT rules and any further rules that NYC DOT may adopt.

PROCESS MODIFICATIONS

Local Law 121 provided that separate and additional mayoral approval is required for sidewalk cafe revocable consent petitions unless the Mayor determines that such approval is not required for a particular petition or category of petitions. The Proposed Legislation extends this authority to roadway cafes, allowing the Mayor to determine that separate and additional mayoral approval is not required for a particular petition or categories of such petitions. Additionally, related to the review and approval process of sidewalk cafes, the Proposed Legislation provides that the Community Board shall not require a petitioner to submit or provide the Community Board with any written materials other than what is required for the revocable consent petition.

AUTHORIZATION OF VERTICAL WINTERIZATION AND TEMPORARY PROTECTIVE COVERINGS FOR SIDEWALK CAFES AND ROADWAY CAFES

Local Law 121 provides that roadway and sidewalk cafes be “open-air”. The DONYC Rules currently allow for vertical screening on one side of a roadway cafe and authorize perimeter demarcations for sidewalk cafes, subject to certain dimensional restrictions. The DONYC Rules also allow for overhead coverings for both roadway and sidewalk cafes. Further, sidewalk cafes may have awnings attached to the adjacent building, subject to approval from the New York City Department of Buildings and New York City Landmarks Preservation Commission, as applicable.

The Proposed Legislation revises this open-air requirement by creating an exception for readily removable vertical winterization coverings between November 30 and March 31 for sidewalk cafes and year-round roadway cafes and the temporary use of vertical protective coverings at other times that NYC DOT determines is warranted, as may be described in NYC DOT rules. The Proposed

Legislation also provides that vertical winterization coverings may be attached to overhead coverings and, for sidewalk cafes, the vertical winterization coverings may be attached to an awning or overhead covering that is attached to the building, provided that such overhead covering or awning complies with the requirements for an awning in the New York City construction codes and any requirement of the New York City Landmarks Preservation Commission, as applicable.

This amendment anticipates forthcoming NYC DOT rulemaking to revise the DONYP design requirements to permit the winterization of sidewalk cafes and year-round roadway cafes and to allow for limited use of vertical protective coverings at other times that NYC DOT determines it may be warranted. Overhead coverings are already permitted under the DONYP rules, however, they are currently not permitted to be attached to a building. The Proposed Legislation provides that sidewalk cafe overhead coverings may be attached to a building in compliance with the requirements for awnings in the NYC construction codes and any requirement of the New York City Landmarks Preservation Commission.

CLEANLINESS

The Proposed Legislation codifies the existing requirement in the DONYP Rules that sidewalk and roadway cafes maintain clean setups that are clear of trash, debris, graffiti, vermin, food scraps, and unsanitary conditions.

C. ENVIRONMENTAL ASSESSMENT OF THE PROPOSED CITY COUNCIL LEGISLATION

As described above, the Proposed Legislation would provide amendments to the Administrative Code to modify the DONYP Program. Previous environmental assessments regarding the DONYP Program were completed for Local Law 121 and the DONYP Rules, as outlined in the analysis in the EAS, TM 001 and TM 002; the above amendments were not considered during these assessments. With the exception of the specific provisions evaluated below, the Proposed Legislation would not affect the operational and developmental assumptions of the RWCDs analyzed in the EAS as well as the updated analysis completed in TM 001 and TM 002.

The following is an assessment of how the Proposed Legislation relates to the operational and developmental assumptions of the RWCDs analyzed in the EAS as well as the updated analysis completed in TM 001 and TM 002. Each section is organized according to which CEQR category may be adversely affected by the Proposed Legislation.

AUTHORIZATION OF YEAR-ROUND ROADWAY CAFES

The EAS and subsequent environmental analyses assumed eight months of operation (from April 1 to November 29) for all roadway cafes. The inclusion of a new subcategory of roadway cafe, the year-round roadway cafe, which allows for year-round operation, has the potential to adversely affect noise, air quality, energy, DSNY snow removal operations, etc.

NOISE

The Proposed Legislation authorizes year-round roadway cafes and thereby also extends the noise associated with these cafes. However, the Proposed Legislation would reduce the closing time for both roadway and sidewalk cafes, other than enclosed sidewalk cafes, from midnight to 11 p.m. each day. Sidewalk and roadway cafes, other than enclosed sidewalk cafes, are currently permitted to operate between 8 a.m. and midnight Monday through Saturday and between 10 a.m. and midnight on Sundays. Pursuant to the Proposed Legislation, NYC DOT will amend its rules to reduce the midnight closing time to 11 p.m., thereby reducing the duration of potential noise effects. Further, any potential noise effects resulting from operation during the winter months would

potentially be reduced by adding vertical winterization coverings that effectively enclose sidewalk and roadway cafes on all sides and reduce any potential noise effects with the enactment of this Proposed Legislation. The potential noise effects from year-round roadway cafes during the winter operating season are expected to be comparable to and possibly less than the noise effects during the rest of the year.

In addition, licensees will continue to be required to comply with the DONYC Rules, which prohibit the operation of musical instruments or sound reproduction or amplification devices and requires compliance with the New York City Noise Control Code, including all restrictions and prohibitions relating to unreasonable noise pursuant to the Administrative Code. Therefore, this provision would not alter the RWCDs, analysis assumptions and the conclusions in the EAS and TM001 and TM 002.

AIR QUALITY: MOBILE AND STATIONARY SOURCES

The mobile sources air quality analysis for roadway cafes in the EAS conservatively assumed year-round operation in the calculation of annual average incremental fine particulate matter (PM 2.5) concentrations. Therefore, the proposed year-round roadway cafe is consistent with the EAS and would not have any adverse effects on air quality and alter the conclusions of the EAS.

Year-round roadway cafes would need to comply with the DONYC Rules related to heaters, which only allow heating units approved by the New York City Department of Buildings and FDNY, as applicable. As FDNY only permits electric heaters, their use in year-round roadway cafes during winter operating season (November 30 - March 31) would not affect the findings of the EAS and TM002 regarding stationary source air quality.

ENERGY: IMPACT TO GRID

As discussed previously, roadway cafes under the Proposed Legislation would increase annual use of heaters due to their operation in colder months. The CEQR Technical Manual limits the assessment of energy impact to actions that could significantly affect the transmission or generation of energy or that generate significant consumption of energy. The Proposed Legislation would result in no significant impacts on the consumption or supply of energy and therefore is consistent with the analysis in the EAS.

SANITATION OPERATIONS: SNOW REMOVAL

Under the Proposed Legislation, roadway cafes will be able to remain in their curb-lane location throughout the winter operating season when snow removal activities are more likely to be required. The EAS considered the possibility of snow accumulation during the 8-month operation period for roadway cafes, noting that because roadway cafes are limited to a maximum width of eight feet from the curb line, DSNY would be able to navigate around existing roadway cafes for snow removal operations. The Proposed Legislation does not alter this design constraint. In addition, year-round roadway cafes would be subject to the DONYC Rules, which limit the maximum width of roadway cafes to eight feet and authorizes NYC DOT to require a narrower roadway cafe where necessary to address safety concerns based on roadway width, roadway geometry (e.g., number of traffic lanes, the presence and composition of bicycle lanes and parking lanes, etc.), proximity to intersections, or to facilitate the traverse of emergency vehicles on such roadway.

Additionally, while the presence of roadway cafes may require DSNY to maneuver around such cafes during snow removal operations, curb lanes are already routinely occupied during the winter months by parked vehicles, loading activities, and other lawful curbside uses. Consequently, while year-round roadway cafes do not have identical dimensions to parked vehicles or other uses and would not be intermittent uses, year-round roadway cafes would not introduce a materially different operational condition than those already encountered by DSNY during winter maintenance

activities.

The Proposed Legislation authorizes DSNY to promulgate rules related to cleanliness and snow removal, in consultation with NYC DOT. DSNY involvement may reduce any potential effects to its snow removal and sanitation operations (as described in the following section). NYC DOT will continue to consider safety issues including but not limited to snow removal when reviewing roadway cafe applications. Therefore, this finding is consistent with the analysis assumptions and the conclusions in the EAS and TM 001 and TM 002.

AUTHORIZING DSNY TO MAKE DONYC CLEANLINESS AND SNOW REMOVAL RULES

Provisions in the Proposed Legislation authorize DSNY to promulgate rules, in consultation with NYC DOT, regarding cleanliness and snow removal to which participants of the DONYC program will be required to adhere. The authorization of rulemaking to DSNY will not change any environmental analysis. However, this provision may reduce any potential effects to sanitation operations like snow removal or street cleaning. This provision of the Proposed Legislation is consistent with the analysis in the EAS.

15-FOOT EMERGENCY TRAVEL LANE

The Proposed Legislation would provide that a 15-foot emergency travel lane shall be maintained on any roadway where NYC DOT has granted a revocable consent for a roadway cafe, providing that NYC DOT may permit an emergency travel lane of less than 15 feet on a roadway where such emergency travel lane is consistent with public safety, in accordance with existing NYC DOT rules. The current DONYC Rules authorize FDNY to approve or deny a request for a roadway cafe that would reduce the width of an emergency travel lane to less than 15 feet. As a review process to reduce the width of an emergency travel lane to less than 15 feet was considered in the previous environmental analysis, this provision of the Proposed Legislation is consistent with the analysis assumptions and the conclusions in the EAS and TM 001 and TM 002.

AUTHORIZING NYC DOT TO ADOPT RULES

The authorization of NYC DOT to adopt rules will not change any environmental analysis.

AUTHORIZATION OF VERTICAL WINTERIZATION AND PROTECTIVE COVERINGS FOR SIDEWALK CAFES AND ROADWAY CAFES

As described above, the Proposed Legislation authorizes the use of readily removable vertical winterization coverings between November 30 and March 31 and vertical protective coverings at other times NYC DOT determines the use of such coverings may be warranted, for both sidewalk and year-round roadway cafes. The DONYC Rules currently allow for vertical screening on one side of a roadway cafe, in addition to the required barriers, and require perimeter demarcations for sidewalk cafes, subject to certain dimensional restrictions. The Proposed Legislation provides that such vertical winterization and protective coverings can be erected on all sides of the roadway cafe, be readily removable, and that the design requirements for both sidewalk and year-round roadway cafes will be established in forthcoming amendments to the DONYC Rules.

For sidewalk cafes, the Proposed Legislation provides that the vertical winterization coverings may be attached to an awning or overhead covering that is attached to the building, provided that such overhead covering or awning complies with the requirements for an awning in the New York City construction codes and any requirement of the New York City Landmarks Preservation Commission, as applicable.

Any requirements related to the design of readily removable vertical winterization and protective coverings which could be erected on all four sides of the roadway cafes, will be addressed as

necessary during forthcoming rulemaking amendments to minimize the potential effects on safety and views of visual resources. These removable coverings will not result in potential in-ground construction-related impacts or the introduction of significant new shadows. In terms of potential impacts to noise and energy use, the use of vertical winterization and protective coverings may reduce any potential impacts by muffling noise and containing heating. Therefore, this overall finding is consistent with the analysis in the EAS.

CHANGES TO ANALYSIS METHODOLOGY

The EAS was prepared in accordance with the guidelines set forth in the *2020 CEQR Technical Manual*. TM 001 and TM 002 prepared in compliance with the *2021 CEQR Technical Manual*. This technical memorandum has been prepared in compliance with the *2025 CEQR Technical Manual*, reflecting changes in environmental review and methodologies presented in the *2021 CEQR Technical Manual*.

Additionally, the EAS assumed a 2022 analysis year, the first full year of operation of the POR program. The current analysis of the Proposed Legislation assumes an analysis year of 2027, the first full year of the revised DONYC program, although the revised DONYC program could begin in late 2026 for a period of approximately one month from November 30 to December 31.

Most of the technical areas assessed in the EAS and considered in the subsequent memos were not affected by the updated guidance and changes to methodologies in the *2025 CEQR Technical Manual* and the change of analysis year to 2027. However, the transportation analyses (specifically the pedestrian analysis), which was performed in the EAS, is evaluated below to determine any resulting change due to the change in analysis year.

Assessing the potential for disproportionate pollution effects on Disadvantaged Communities as required by the *2025 CEQR Technical Manual* is presented below, along with assessments for potential climate risks as required by recent changes to the State Environmental Quality Review Act (SEQR) Environmental Assessment Form (EAF) Long form.

PEDESTRIAN ANALYSIS

The current analyses of the Proposed Legislation, outlined in this Technical Memorandum, assume that 2027 would be the first full year of the revised DONYC program. The methodology for applying a standard annual growth rate of pedestrian volumes used in analyses conducted in the EAS, TM 001 and TM 002 has not changed in the *2025 CEQR Technical Manual*, so 2027 pedestrian estimates can be calculated by applying an additional five years of background growth to the estimated 2022 pedestrian volumes used for the EAS. The five years of additional growth results in a low-end range of 1.25 percent growth (according to the standard annual background growth rate beyond 5 years) for Manhattan, the Bronx, Downtown Brooklyn, Long Island City, Queens, and St. George, Staten Island; it would result in a high-end range of 5 percent growth for areas of Staten Island outside of St. George.

Based on the latest NYC DOT's biannual pedestrian data collection in 2025, pedestrian volumes have not fully recovered to pre-COVID levels. While projected pedestrian values for 2027 could be calculated by adding 2 years of CEQR standard annual growth rates to the 2025 NYC DOT's biannual pedestrian data, the 2027 analysis year volumes would be lower than the 2022 volume projections used in the EAS. Therefore, the 2022 horizon year analysis presented in the EAS represents a more conservative estimate of future pedestrian volumes than the 2025 pedestrian counts increased to 2027, and no additional pedestrian analysis is necessary.

DISADVANTAGED COMMUNITIES

The 2025 CEQR Technical Manual added *Chapter 23: Effects on Disadvantaged Communities*, pursuant to Environmental Justice Siting Law of 2024. Disadvantaged communities (“DAC”) are defined as communities that “bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria or comprise high concentrations of low and moderate income households.” According to New York State’s DAC mapper, New York City has several DAC communities located throughout all boroughs. Assessment of potential impact to DAC within the CEQR context is focused on how a project or action has the potential to cause or increase a disproportionate pollution burden. Pollution, defined by NYS Environmental Conservation Law is “the presence in the environment of conditions and or contaminants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property.” This includes impact areas under CEQR such as air quality, noise, solid waste generation, wastewater treatment and discharges, hazardous waste and odors.

While the EAS and subsequent technical memoranda did not analyze disproportionate pollution burdens, impacts to all relevant impact categories, including air quality, noise, solid waste generation, were examined. The EAS and the subsequent technical memoranda found no significant impacts to any resource category. Therefore, no further analysis is needed to examine the potential disproportionate impacts on Disadvantaged communities.

CLIMATE RISK: FLOOD PRONE ROADWAY CAFES

Restaurants participating in the DONYC Program that are located in flood-prone areas are more likely to experience disruption to the operation of their sidewalk and/or roadway cafes as well as damage to their chairs, tables or other features as a result of weather events and changing climate conditions. As described in the EAS, roadway cafes and sidewalk cafes located in flood-prone areas can avoid such detrimental impacts by removing furniture, lighting, and other materials prior to a flood event.

As stated in the EAS, the existence of roadway cafes does not impede the abilities of surrounding buildings to develop and implement flood mitigation strategies. Extending the operation of roadway cafes to year-long operations will not affect these conclusions and therefore is consistent with the analysis in the EAS.

Recent changes to SEQR EAF Long form (Question 20) add similar questions related to human or ecological communities to future physical climate risks, including extreme heat or cold. DONYC participating restaurants and their customers can avoid such impacts by not operating or going to DONYC participating restaurants, respectively during climate risk events.

D. CONCLUSION

The City Council’s Proposed Legislation would not alter the development and operational assumptions in the RWCDs evaluated in the EAS and subsequent TM 001 and TM 002. Therefore, the Proposed Legislation would not result in any significant adverse environmental impacts. In addition, neither the change from a 2022 to a 2027 implementation year nor the methodology updates provided in the *2025 CEQR Technical Manual* issued subsequent to the publication of the EAS would alter the findings of the EAS, the Negative Declaration, and subsequent technical memoranda.