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COMMITTEE ON SMALL BUSINESS

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Oversight: The City's Open Storefronts Program

December 1, 2020

I. Introduction

On December 1, 2020, the Committee on Consumer Affairs and Business Licensing, chaired by Council Member Andrew Cohen, and the Committee on Small Business, chaired by Council Member Mark Gjonaj, will hold a remote joint hearing on “Oversight: The City’s Open Storefronts Program.” Those invited to testify include the Department of Small Business Services (SBS), small business advocates, chambers of commerce, Business Improvement Districts and other members of the public.

II. Background

In late December 2019, a new virus, SARS-CoV-2, was detected in Wuhan, China and by January 30, 2020, the World Health Organization (WHO) declared that COVID-19, the disease caused by the SARS-CoV-2 virus, was now a Public Health Emergency of International Concern (PHEIC).¹ As of November 30, 2020, COVID-19 has infected over 63 million people across 218 countries and territories, and has killed over 1.4 million people.² In the United States alone, there have been over 13 million infections and over 266,000 deaths.³ To date, New York has had over 641,000 infections and over 34,000 deaths, many of which took place in New York City.⁴

While COVID cases remained consistently low throughout the summer and the City began to reopen, COVID cases in New York began to steadily increase in October.⁵ As of November 30, 2020, there was an average of over 6,400 cases per day in New York State – an increase of 44

¹ World Health Organization “Rolling updates on coronavirus disease (COVID-19)”, Updated April 18, 2020, available at: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>

² Worldometer “Countries where COVID-19 has spread”, Updated September 8, 2020 at 17:44 GMT, available at: <https://www.worldometers.info/coronavirus/countries-where-coronavirus-has-spread/>

³ Johns Hopkins University of Medicine, Coronavirus Resource Center, Updated September 8, 2020, available at: <https://coronavirus.jhu.edu/>

⁴ *Id.*

⁵ Joseph Goldstein and Liam Stack, “N.Y.C. Reports Large Uptick in Virus Cases” The New York Times, Updated October 16, 2020, <https://www.nytimes.com/2020/09/29/nyregion/nyc-coronavirus-uptick.html>

percent from the average two weeks earlier.⁶ As the number of COVID-19 cases and hospitalizations are increasing in the City,⁷ Mayor de Blasio recently acknowledged that the City is “dealing with a serious threat of a second wave that has real ramifications for all of us.”⁸

The airborne spread of the virus has caused governments across the globe to shutdown businesses, schools, religious and cultural institutions, and mandate various levels of social isolation. While these measures have helped to limit the spread of the virus, stay-at-home orders have had a catastrophic impact on economic markets, particularly small businesses that thrive from regular contact with their community and neighbors.

A survey of approximately 600 small businesses conducted in September 2020 by Comcast Business found that 86 percent of respondents experienced a decline in business revenue in 2020, with 70 percent projecting that they could lose up to half their annual revenue in 2020.⁹ Further, since the pandemic began, only 21 percent of businesses surveyed report having resumed normal operations, and 53 percent predict that it will take about six months to a year to return to what was previously considered as normal.¹⁰

Limitations on City Businesses in Response to COVID-19

As businesses were subject to operational restrictions and New Yorkers stayed home to stop the spread of the virus, consumer spending declined in the City. In late March 2020, consumer spending dropped 44 percent year-over-year, according to Mastercard.¹¹ The Manhattan Chamber

⁶ “New York Covid Map and Case Count”, The New York Times, Updated November 30, 2020, <https://www.nytimes.com/interactive/2020/us/new-york-coronavirus-cases.html>

⁷ “Latest Data”, NYC Health, <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>

⁸ “Transcript: Mayor de Blasio Holds Media Availability” City of New York, November 16, 2020, <https://www1.nyc.gov/office-of-the-mayor/news/784-20/transcript-mayor-de-blasio-holds-media-availability>

⁹ “Most Business Owners Feel Prepared for Second COVID-19 Wave,” Comcast Business, September 29, 2020, <https://corporate.comcast.com/press/releases/small-business-owners-prepared-second-wave-covid-19-comcast-business>.

¹⁰ *Id.*

¹¹ “A Call for Action and Collaboration”, Partnership for New York City, July 2020, pg. 14 <https://pfnyc.org/research/a-call-for-action-and-collaboration/>.

of Commerce reported that foot traffic in Manhattan at the end of August was down nearly 40 percent compared to pre-COVID times.¹²

The drastic drop in consumer spending in the City and resulting loss in revenue for businesses has made it difficult for business owners to continue paying rent. The Hospitality Alliance surveyed over 400 restaurants, bars, nightclubs and event venues in NYC about their rent obligations in October. The resulting report found that approximately 88 percent of respondents could not pay their full rent in October, while around 59 percent of landlords did not waive rent payments for restaurants, bars and night clubs.¹³ The current outlook for many small businesses is dire as they experience massive revenue declines but must continue paying the same fixed costs, such as rent, as pre-COVID times.

Thousands of small businesses have closed in New York due to their inability to continue paying their fixed costs such as rent. According to a City Comptroller report, at least 2,800 small businesses closed permanently between March 1st and July 10th.¹⁴ The Partnership for New York City predicted in July that as many as a third of the 230,000 small businesses in NYC may never reopen.¹⁵

The Impact of Closures on the Retail Industry

The pandemic and resulting business closures have especially devastated the retail industry. As over 65 million people in the U.S. have filed unemployment claims since the

¹² “Indicators of Progress,” Manhattan Chamber of Commerce, <https://www.nycindicators.com/>.

¹³ “October 2020 Rent Survey”, NYC Hospitality Alliance, available at: <https://thenycalliance.org/assets/documents/informationitems/22Rtf.pdf>

¹⁴ “Save Main Street: A Crash Program to Help Save NYC Small Businesses”, New York City Comptroller Scott M. Stringer, August 5, 2020, available at: https://comptroller.nyc.gov/wp-content/uploads/documents/Save_Main_Street_8_5_20.pdf.

¹⁵ “A Call for Action and Collaboration”, Partnership for New York City, July 2020, pg. 4, <https://pfnyc.org/research/a-call-for-action-and-collaboration/>.

pandemic began,¹⁶ consumer activity has dropped since March as many Americans have cut back on spending.¹⁷ A report by Deloitte found that retail sales dropped 20 percent from February to April of this year.¹⁸ Department stores experienced a drop in sales of around 45 percent, while sales at clothing and accessory stores decreased around 90 percent.¹⁹

During the peak of the pandemic in late March and early April, total consumer spending dropped in the City by around 42 percent in comparison to January 2020.²⁰ The drop in consumer spending in the retail industry was slightly better during this period, as consumer spending in the retail sector decreased around 37 percent.²¹ As of November 8, 2020, total small business revenues in the City were down nearly 50 percent in comparison to January 2020, with small business revenues in retail and transportation²² down around 35 percent.²³

As retail stores are experiencing drastic declines in revenue, hundreds of retail stores have closed across the City since the start of the pandemic. According to an August City Comptroller report, around 844 retail establishments closed permanently from March 1 through July 10, causing a permanent loss of jobs and wages in the City.²⁴ The unemployment rate in the City, at 13.2

¹⁶ Megan Henney, “Number of Americans filing for jobless aid falls to 787,000, lowest since March” Fox Business, October 22, 2020, <https://www.foxbusiness.com/economy/jobless-claims-coronavirus-pandemic-october-17>

¹⁷ Rodney R. Sides et. al, “The retail evolution’s great acceleration: How to maneuver in the pandemic-driven Recession”, Deloitte, <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/consumer-business/us-cb-covid-recession-2020.pdf>

¹⁸ Rodney R. Sides et. al, “The retail evolution’s great acceleration: How to maneuver in the pandemic-driven Recession”, Deloitte, <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/consumer-business/us-cb-covid-recession-2020.pdf>

¹⁹ *Id.*

²⁰ “Percent Change in All Consumer Spending” available at: <https://tracktherecovery.org/>

²¹ *Id.*

²² “Transportation” includes industries providing transportation of passengers and cargo, warehousing and storage for goods, scenic and sightseeing transportation, and support activities related to modes of transportation as defined by the U.S. Bureau of Statistics NAICS 48-49. More information available at: <https://www.bls.gov/iag/tgs/iag48-49.htm>

²³ “Percent Change in All Consumer Spending” available at: <https://tracktherecovery.org/>

²⁴ “Save Main Street: A Crash Program to Help Save NYC Small Businesses”, New York City Comptroller Scott M. Stringer, August 5, 2020, available at: https://comptroller.nyc.gov/wp-content/uploads/documents/Save_Main_Street_8_5_20.pdf.

percent as of October 2020,²⁵ was nearly 10 percentage points higher than the previous October,²⁶ and may continue to be high even after the pandemic subsides as thousands of small businesses might permanently close. Labor statistics from the New York State Department of Labor indicate that employment in many “Retail Trade” businesses are down significantly. For example, employment in “Clothing and Clothing Accessories Stores” is down 39.3 percent in October 2020 as compared to October 2019,²⁷ with “Clothing Stores” specifically down 51.2 percent.²⁸ Employment in “Furniture and Home Furnishings Stores” is down 28 percent,²⁹ and in “Sport, Goods, Hobby, Book, and Music Stores,” employment is down 18.8 percent.³⁰

Certain retailers may have also been better equipped to continue making sales throughout the pandemic. Retailers that had digital platforms and sophisticated data in connecting customers with their products online have had the highest chances to succeed during the pandemic.³¹ In contrast, retailers located in the City without an online presence have faced greater difficulty remaining competitive. As immigrant and minority-owned businesses tend to be undercapitalized operations with a smaller financial cushion,³² they may have less of an ability to spend money and time to develop a strong online marketplace. According to the Asian American Federation, it has been extremely difficult for immigrant small business owners to engage in mainstream marketing

²⁵ New York State Department of Labor, “Labor Statistics for the New York City Region”, available at: <https://www.labor.ny.gov/stats/nyc/>

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Rodney R. Sides et. al, “The retail evolution’s great acceleration: How to maneuver in the pandemic-driven Recession”, Deloitte, <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/consumer-business/us-cb-covid-recession-2020.pdf>

³² Tracy Jan, “A new gentrification crisis: The coronavirus recession could wipe out minority-owned businesses, fueling displacement from historic ethnic neighborhoods”, The Washington Post, July 31, 2020, <https://www.washingtonpost.com/business/2020/07/31/ethnic-enclaves-gentrification-coronavirus/?arc404=true>.

and e-commerce efforts because of difficulties in communicating or obtaining information due to language barriers.³³

Industry Demands

Retail industry advocates have called for federal relief as the central way the government can prevent further business closures and unemployment in the industry sector. On July 20, 2020, the National Retail Federation (NRF) wrote a letter to congressional leadership calling for an increase in loan and financial assistance for retailers.³⁴ According to David French, a senior Vice President at NRF, “[t]he hardest hit retailers are still facing urgent liquidity issues and desperately need access to capital to continue serving their customers.”³⁵ On September 30, 2020, a coalition of 300 public and private sector groups across the country wrote a letter to House and Senate Leadership³⁶ calling for further federal aid. The letter called for bipartisan legislation to “prevent catastrophic economic harm,” including the potential closure of hundreds of thousands of companies and millions of employees being furloughed or terminated.³⁷ As the Small Business Administration’s Paycheck Protection Program (PPP) stopped accepting new business loan applications in August, businesses seeking financial relief have needed to apply to state, local, or private foundations for aid.³⁸

³³ “Written Testimony for New York City Council Oversight Hearing on How Technology can Assist Small Businesses during the Pandemic” October 30, 2020, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4670373&GUID=68D1621D-6BB2-403D-A466-0691422B2845&Options=&Search=>

³⁴ Alex Gangitano, “Retail industry calls for targeted relief amid coronavirus pandemic” The Hill, July 21, 2020, <https://thehill.com/business-a-lobbying/business-a-lobbying/508267-retail-industry-calls-for-targeted-relief-amid>

³⁵ *Id.*

³⁶ The letter was addressed to House Speaker Nancy Pelosi, Senate Majority Leader Mitch McConnell, Senate Minority Leader Chuck Schumer and House Minority Leader Kevin McCarthy

³⁷ “COVID RELIEF NOW COALITION” September 30, 2020, <https://cdn.nrf.com/sites/default/files/2020-09/COVID%20RELIEF%20NOW%20Letter%209.30%20V2.pdf>

³⁸ Kerry Hannon, “For Small-Business Owners, a Shifting Landscape of Resources”, The New York Times, Updated November 18, 2020, <https://www.nytimes.com/2020/11/16/business/smallbusiness/small-business-loans-assistance-resources.html>

The need for further financial relief is essential in the City as small businesses in New York received disproportionately less money from the PPP than did other states.³⁹ Only 43 percent of retail stores in the City that qualified received a PPP loan.⁴⁰ Prior to the announcement of the PPP, SBS administered two financial relief programs, the Employee Retention Grant Program and Small Business Continuity Loan Fund, to provide immediate financial relief to small businesses during the COVID-19 crisis.⁴¹ However, both programs were overwhelmed with applications and had to close in early April. Furthermore, the disbursement of City funds did not equitably provide relief to businesses across the five boroughs, with Manhattan businesses receiving the majority of funds.⁴² On November 25, 2020, Mayor de Blasio announced three new financial assistance programs for small businesses in low-to-moderate income (LMI) neighborhoods.⁴³ SBS collaborated with the Economic Development Corporation and Pursuit BDC to create the “NYC LMI Storefront Loan,” a \$35 million zero interest loan program for businesses with at least two and fewer than 100 employees.⁴⁴ The Mayor also announced an “Interest Rate Reduction Grant”, a grant program to help reduce the interest business owners owe on existing loans with certain Community Development Financial Institutions.⁴⁵ SBS will also be disbursing grants through the

³⁹ Zachary R. Mider and Cedric Sam, “Hardest-Hit States, Once Shortchanged on Small-Business Aid, Are Catching Up,” Bloomberg, May 20, 2020, <https://www.bloomberg.com/graphics/2020-sba-paycheck-protection-program/second-round-funding.html>

⁴⁰ “Save Main Street: A Crash Program to Help Save NYC Small Businesses”, New York City Comptroller Scott M. Stringer, August 5, 2020, available at: https://comptroller.nyc.gov/wp-content/uploads/documents/Save_Main_Street_8_5_20.pdf.

⁴¹ Office of the Mayor, *Mayor de Blasio Provides Updates on New York City's COVID-19 Response*, March 8, 2020, available at: <https://www1.nyc.gov/office-of-the-mayor/news/124-20/mayor-de-blasio-provides-on-new-yorkcity-s-covid-19-response>.

⁴² Angelica Acevedo, “New Small Business Services Commissioner Says Equitable Distribution of Resources is Main Priority”, *amNY*, May 19, 2020, <https://www.amny.com/business/new-small-business-services-commissioner-says-equitable-distribution-of-resources-is-main-priority/>.

⁴³ Office of the Mayor, *Recovery Agenda: City Launches Small Business Supports for Hard-Hit Low and Moderate Income (LMI) Communities*, November 25, 2020, available at: <https://www1.nyc.gov/office-of-the-mayor/news/812-20/recovery-agenda-city-launches-small-business-supports-hard-hit-low-moderate-income-lmi->

⁴⁴ *Id.*

⁴⁵ *Id.*

“Strategic Impact COVID-19 Commercial District Support Grant” to community-based development organizations to provide COVID-19 recovery support to local small businesses.⁴⁶

As the retail industry’s central demand of more extensive financial relief is currently dependent on the passage of another federal stimulus bill, however, local business advocates have sought creative approaches to boost the retail industry. On September 23, 2020, the NYC BID Association sent a letter to the Mayor and City Council calling on the City to allow storefront retailers to use sidewalk space to sell their goods and to participate in the Open Streets program under the same rules as restaurants.⁴⁷ The letter stated,

The launch of such a program will allow the City’s countless struggling storefront retail and other businesses to reach customers using outdoor space in a safe way moving forward. If the City does not act quickly, we risk additional permanent closures of small businesses, particularly in the outer boroughs, including significant percentages of MWBE and immigrant-owned businesses.⁴⁸

On October 28, 2020, the Mayor announced the creation of such a program, called the “Open Storefronts Program.”⁴⁹

III. Open Storefronts Program

On October 28, 2020, Mayor de Blasio issued an emergency executive order to allow covered retail businesses to use certain outdoor spaces to sell their items, under an initiative called the Open Storefronts Program.⁵⁰ A covered business is an established, ground-floor business, with a storefront that operates out of a commercial building.⁵¹ Food service establishments are excluded

⁴⁶ *Id.*

⁴⁷ Samar Khurshid, “Business Association Calls on Mayor to Launch ‘Open Stores’ Program to Help City’s Struggling Retail Sector” Gotham Gazette, September 24, 2020, <https://www.gothamgazette.com/city/9778-businesses-open-stores-program-help-struggling-retail-new-york-city>

⁴⁸ *Id.*

⁴⁹ “Open Storefronts Program aims to help NYC small businesses amid pandemic” October 28, 2020, Eyewitness News, <https://abc7ny.com/open-storefronts-initiative-program-restaurants-nyc-indoor-dining/7419965/>

⁵⁰ Office of the Mayor “Emergency Executive Order No. 157”, October 28, 2020, available at: <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-157.pdf>.

⁵¹ *Id.* and Department of Transportation “Open Storefronts”, available at: <https://www1.nyc.gov/html/dot/html/pedestrians/openstorefronts.shtml>, last accessed November 24, 2020.

from the program, since they are covered by the City’s Open Restaurants Program.⁵² In addition to retail businesses, “repair stores, personal care services, and dry-cleaning and laundry services are able to use outdoor space for seating, queuing, or display of dry goods.”⁵³

Under the program, a covered business may use adjacent outdoor spaces (i.e. the sidewalk in front of the business, off-street parking spaces or private yards adjacent to the business, or on any streets open under the Open Streets: Restaurants initiative), to conduct business.⁵⁴ Businesses participating in Open Storefronts are only permitted to operate during their normal business hours, provided this falls between Monday to Saturday from 8am until 11pm and Sunday 10am until 11pm.⁵⁵ For example, if a business normally opens at 7am on a Monday, they are only permitted to use the outdoor space starting at 8am. Similarly, if they would normally close at 10pm during the week, they must also stop using the outdoor space at that time.⁵⁶ The program began operating on October 30, 2020 and is set to conclude on December 31, 2020.⁵⁷

Like the outdoor dining program permitted under the Open Restaurants Program, the Open Storefronts Program was established to provide businesses access to outdoor space, which is considered a much safer space to congregate during the COVID-19 pandemic. Furthermore, as retail businesses are limited to 50 percent capacity due to concerns over COVID-19, outdoor retail space allows businesses additional space to cater for more customers.⁵⁸

⁵² Office of the Mayor “Emergency Executive Order No. 157”, October 28, 2020, available at: <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-157.pdf>.

⁵³ Department of Transportation “Open Storefronts”, available at: <https://www1.nyc.gov/html/dot/html/pedestrians/openstorefronts.shtml>, last accessed November 24, 2020.

⁵⁴ Office of the Mayor “Emergency Executive Order No. 157”, October 28, 2020, available at: <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-157.pdf>.

⁵⁵ Department of Transportation “Open Storefronts”, available at: <https://www1.nyc.gov/html/dot/html/pedestrians/openstorefronts.shtml>, last accessed November 24, 2020.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Office of the Mayor “Open Storefronts: Reimagining Outdoor Space for New Yorkers and Small Businesses”, available at: <https://www1.nyc.gov/assets/sbs/downloads/pdf/businesses/covid19/openstorefronts/Open-Storefronts-flyer.pdf>.

Siting Rules and Specifications

To participate in the program, eligible businesses complete a free, online application form and self-certify that they are eligible and in compliance with the specifications.⁵⁹ Groups of three or more businesses on the same block may also apply together to request an open street as part of the Open Streets: Restaurants program, to allow both outdoor dining and outdoor retail.⁶⁰ Once approved, the applicant will receive a confirmation email from the City, which they suggest businesses print and display.⁶¹

For businesses wishing to use the sidewalk space, they must leave at least eight feet of sidewalk space clear for pedestrian access, have their outdoor objects and conduct their business no farther than five feet away from their storefront, and at least three feet away from a participating restaurant (or one foot away from another retailer participating in the Open Storefronts program).⁶² This is partly illustrated in the graphic below.

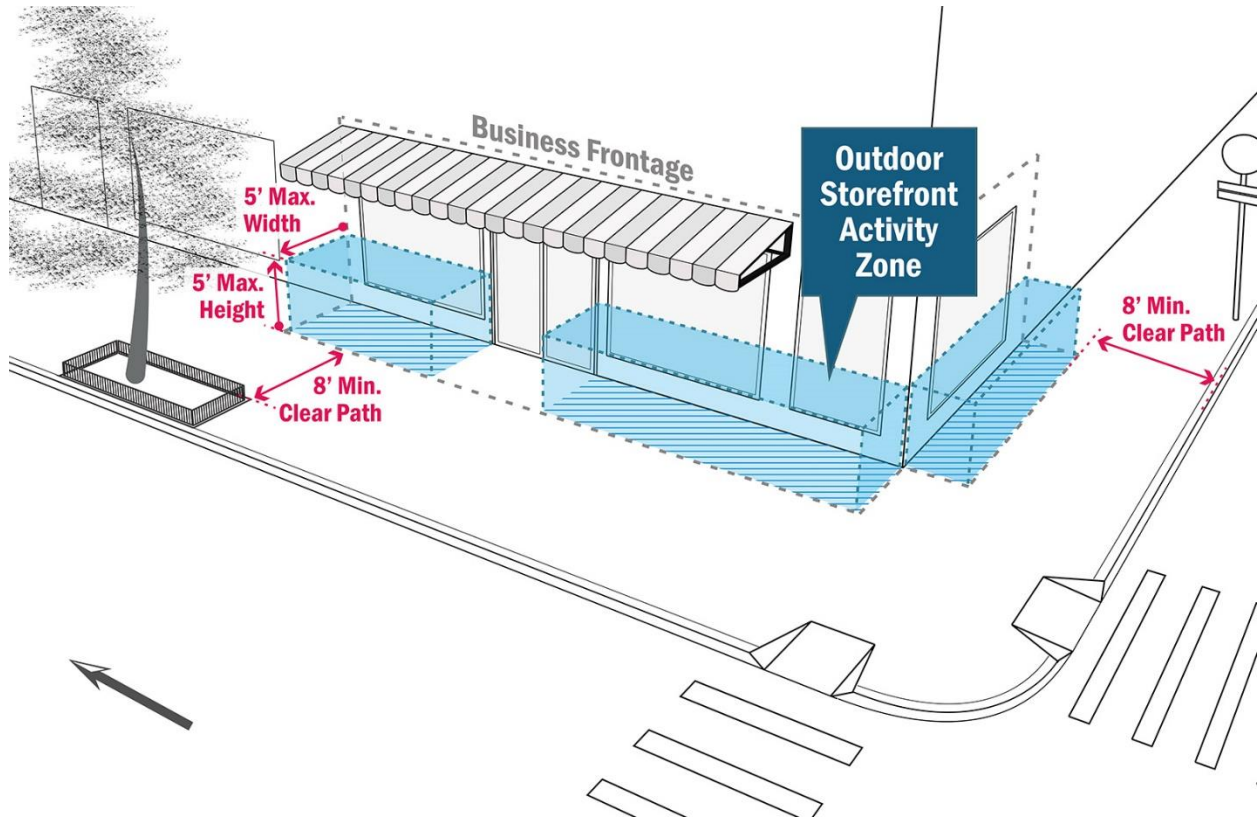
⁵⁹ Department of Transportation “Open Storefronts”, available at: <https://www1.nyc.gov/html/dot/html/pedestrians/openstorefronts.shtml>, last accessed November 24, 2020.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

Open Storefronts Siting Requirements⁶³



Businesses that already operate with a stoop-line license do not need to apply to the Open Storefronts program to keep selling those wares and, unlike those businesses approved under Open Storefronts, their structures do not have to be removed at the end of each day.⁶⁴

Businesses utilizing outdoor retail space as part of the Open Streets: Restaurants program must provide access to an emergency lane of at least 15 feet, which can include a bike lane, unless they receive an exemption from the Department of Transportation and the Fire Department.⁶⁵ Whether a business is using the sidewalk space under Open Storefronts, or the roadway, under the Open Streets: Restaurants program, both instances: limit the height of outside merchandise to five

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

feet above the sidewalk; prohibit the building of permanent structures (aside from safety barriers); and set a maximum space of 400 square feet for space occupied by tents and/or umbrellas.⁶⁶

IV. Issues and Concerns

Although the Open Storefronts program has generally been well received,⁶⁷ there are some issues that prevent the program from being as successful and celebrated as the Open Restaurants initiative. To begin with, Open Storefronts was not permitted until the end of October and is scheduled to expire at the end of the year, unlike the Open Restaurants Program, which was successfully operating all summer and was recently extended well into 2021, with plans to make a variation of the program permanent.⁶⁸ One editorial analogized the late timing of the Open Storefronts program to “a lifeguard arriving 20 minutes late to the scene of a drowning, after the shouts and the frantic paddling are over.”⁶⁹

Unlike the Open Restaurants program, the Open Storefronts program does not permit the use of roadways or outdoor heaters by retailers.⁷⁰ Furthermore, while other jurisdictions allowed service providers, such as barbers and hairstylists, to operate outside during the pandemic emergency,⁷¹ these businesses are not eligible to utilize the City’s Open Storefronts program.⁷²

⁶⁶ *Id.*

⁶⁷ See for example NYC Bid Association, Twitter thread, October 28, 2020, available at: <https://twitter.com/NYCBIDs/status/1321461215995006977>.

⁶⁸ Local Law No. 114 of 2020; Luke Fortney and Erika Adams, “Outdoor Dining Is Now a Permanent NYC Fixture, Mayor Announces,” *Eater New York*, September 25, 2020, available at: <https://ny.eater.com/2020/9/25/21450844/outdoor-dining-permanent-restaurants-nyc>

⁶⁹ Daily News Editorial Board “Cold store-age: De Blasio’s open storefronts arrive too late”, *New York Daily News*, October 31, 2020, available at: <https://www.nydailynews.com/opinion/ny-edit-de-blasio-open-storefronts-business-nyc-coronavirus-winter-20201031-zprf6loyvcyxm5zqkrv5ydria-story.html>.

⁷⁰ Department of Transportation “Open Storefronts”, available at: <https://www1.nyc.gov/html/dot/html/pedestrians/openstorefronts.shtml>, last accessed November 24, 2020.

⁷¹ Elizabeth Denton “Hair Salon Owners Are Making It Work During the Pandemic”, *Allure*, September 30, 2020, available at: <https://www.allure.com/story/outdoor-hair-salons-covid-19>.

⁷² Department of Transportation “Open Storefronts”, available at: <https://www1.nyc.gov/html/dot/html/pedestrians/openstorefronts.shtml>, last accessed November 24, 2020.

Although the City anticipated that up to 40,000 businesses, supporting 450,000 workers,⁷³ would be able to participate in Open Storefronts, it is unclear whether the program attracted this number of businesses. Part of the difficulty would likely be because there are so few sidewalks in New York City that are wide enough, and free from obstructions (such as Citi bikes, fire hydrants, bus stops, etc.), to accommodate the siting regulations. Back in April, when the pandemic was at its peak and guidance was requiring people to stay six feet apart, the narrowness of the City's sidewalks were recognized as a problem.⁷⁴ In fact, the decision to open up roadways for pedestrian use was driven by this need for additional space.⁷⁵ This sidewalk limitation limits businesses in some parts of the City from participating in the Open Storefronts program.

V. Conclusion

The COVID-19 pandemic was been a catalyst for creative problem-solving by legislators and policy makers. At the heart of these efforts is an attempt to mitigate as many of the negative effects of the pandemic as possible. In some instances, the City has seen a successful implementation of programs that have been so well received that there are plans to make them permanent. It is unclear whether the Open Storefronts program merits the same response. The Committees look forward to hearing feedback on the program, particularly from business owners, as there may be improvements that could be made, if this program was extended, and important lessons to be learned moving forward.

⁷³ Lynsey Smith “City Announces Open Storefront Program Ahead of Holiday Shopping Season”, *Cityland*, November 12, 2020, available at: <https://www.citylandnyc.org/city-announces-open-storefront-program-ahead-of-holiday-shopping-season/>.

⁷⁴ Ben Yakas “Interactive NYC Map Shows A Lack Of Sidewalk Space For Social Distancing”, *Gothamist*, April 27, 2020, available at: <https://gothamist.com/news/interactive-nyc-map-shows-lack-sidewalk-space-social-distancing>.

⁷⁵ *Id.*