File #: Int 0655-2026, **Version:** A

Int. No. 655-A

By Council Members Restler, Ossé, Hanif, Krishnan, Hudson, J. Sanchez, Louis, Brewer, Hanks, Avilés and Gennaro (in conjunction with the Brooklyn and Manhattan Borough Presidents)

A Local Law to amend the administrative code of the city of New York, in relation to expanding access to roadway cafes

Be it enacted by the Council as follows:

Section 1. The definition of "roadway cafe" in section 19-101 of the administrative code of the city of New York, as added by local law number 121 for the year 2023, is amended, and new definitions of "existing roadway cafe", "seasonal roadway cafe" and "year-round roadway cafe" are added to such section in alphabetical order, to read as follows:

Existing roadway cafe. The term "existing roadway cafe" shall mean a roadway cafe operating on August 15, 2026 that has been granted a revocable consent by the commissioner prior to such date, 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.

Roadway cafe. The term "roadway cafe" shall mean [an open-air] a portion of a ground floor restaurant [containing readily removable tables, chairs and other removable decorative items,] which is located in the curb lane or parking lane of a roadway fronting the restaurant and is designed and operated pursuant to rules of the department.

Seasonal roadway cafe. The term "seasonal roadway cafe" shall mean a roadway cafe that has been granted a license and revocable consent by the commissioner to operate between April 1 and November 29

only.

Year-round roadway cafe. The term "year-round roadway cafe" shall mean a roadway cafe that has been granted a license and revocable consent by the commissioner to operate on any day of a year, including any day between November 30 and March 31.

§ 2. Subdivisions b, c, d, and g of section 19-160 of the administrative code of the city of New York, as added by local law number 121 for the year 2023, are amended, and a new subdivision k is added to such section, to read as follows:

b. 1. The department, consistent with chapter 14 of the charter and the provisions of this subchapter, shall promulgate rules relating to (i) the granting of such licenses and revocable consents, and the administration of such licenses and revocable consents; (ii) the design of a sidewalk cafe or roadway cafe; (iii) priorities among applicants for a license covering the same area on a sidewalk or a roadway; [and] (iv) the operation and maintenance of any sidewalk cafe or roadway cafe to prevent undue obstruction of the street, to ensure good order, public safety and the general welfare and to secure the beneficial purpose of opening streets to outdoor dining; and (v) the design and operation of a year-round roadway cafe, which shall include requirements for snow removal, winterization standards, and other standards specific to year-round operation to facilitate use of such cafe for the purpose of providing service throughout the year. The department of sanitation, in consultation with the department, may promulgate rules relating to cleanliness and snow removal for a roadway cafe.

2. A sidewalk cafe, other than an enclosed sidewalk cafe, shall be open-air and shall contain only readily removable tables, chairs and other removable decorative items as set forth in such rules.

3. A roadway cafe shall be open-air and contain only readily removable tables, chairs, and other removable decorative items as described in rules promulgated by the department, except that: (i) from November 30 to March 31 inclusive, the operator of a roadway cafe may, in accordance with such rules, equip such cafe with a vertical winterization covering that may be attached to an overhead covering; and (ii) the

department may promulgate rules to allow the use of readily removable vertical protective coverings and overhead coverings in other circumstances that the department determines warrants the temporary use of such vertical protective coverings or overhead coverings.

4. A 15-foot emergency travel lane shall be maintained on any roadway where the department has granted a consent for a roadway cafe, provided that the department may permit an emergency travel lane width of less than 15 feet on a roadway where such an emergency travel is consistent with public safety, in accordance with the rules of the department.

5. Smoking and the use of an electronic cigarette, as defined in section 17-502, are prohibited in an outdoor area of a sidewalk cafe or a roadway cafe.

c. No rule promulgated by the department in relation to the license granted to a sidewalk cafe or a roadway cafe in accordance with subdivision b of this section shall: (i) prevent a sidewalk cafe or a roadway cafe from [operating during the hours of] opening for operation at or after 10:00 a.m. [through 12:00 a.m.] daily; (ii) allow a sidewalk cafe, other than an enclosed sidewalk cafe, or a roadway cafe to operate after 11:00 p.m. daily or before 10:00 a.m. on Sundays; [or] (iii) authorize a roadway cafe, other than a year-round roadway cafe or an existing roadway cafe with an interim license for year-round operation, to operate on any day from November 30 to March 31, inclusive; or (iv) authorize a roadway cafe to use any portion of a roadway, for which the department has granted a revocable consent to operate such cafe, for storage or any other purpose other than serving customers during operating hours.

d. A license to operate a sidewalk cafe shall be granted after the review and approval of a petition for a revocable consent to establish and operate such cafe pursuant to the provisions of this subchapter and the rules of the department, except that a license to operate a sidewalk cafe located entirely on a sidewalk widening shall be granted after review and approval of a petition for a consent to operate such sidewalk cafe in accordance with the rules of the department, which shall provide for notice of such petition to the affected community board and council member. A license to operate a roadway cafe shall be granted after the review and approval

of a petition for a revocable consent to establish and operate such cafe pursuant to chapter 14 of the charter, the provisions of this subchapter, and the rules of the department. There shall be a separate license for a year-round roadway cafe and a seasonal roadway cafe. An operator of a sidewalk cafe shall cause the boundary of the area licensed as a sidewalk cafe to be marked and separated in a manner prescribed pursuant to rules of the department. An operator of a roadway cafe shall cause the boundary of the area licensed as a roadway cafe to be delineated and protected by barriers in a manner prescribed in rules of the department.

g. There shall be separate fees for a sidewalk cafe license, a year-round roadway cafe license, and a seasonal roadway cafe license. The fee for a license to establish and operate a sidewalk cafe, and for the renewal of such a license, shall be $1,050 for each license period. The fee for a license to establish and operate a year-round roadway cafe, and for the renewal of such a license, shall be $1,050 for each license period. The fee for a license to establish and operate a seasonal roadway cafe, and for the renewal of such a license, shall be $1,050 for each license period. Such license and renewal fees shall be in addition to the amount required to be paid upon approval of a petition for a revocable consent, or renewal thereof, to establish and operate a sidewalk cafe or roadway cafe.

k. The department shall grant an interim license to an existing roadway cafe solely for year-round operation provided that such cafe submits an application by electronic means, on the department's website for such an interim license in accordance with this subdivision. Notwithstanding subdivision h of this section, the term of such interim license shall be 1 year, and may be renewed each year during the term of the revocable consent granted to such existing roadway cafe. The fee for such interim license for year-round operation shall be $630 and shall be in addition to the fee paid to obtain a license for a roadway cafe. Upon the expiration of an interim license for year-round operation of a roadway cafe, and failure to renew such interim license, a roadway cafe may only operate year-round, including the period from November 30 through March 31, where the department grants a license to operate a year-round roadway cafe in accordance with this section, and a revocable consent for a year-round roadway cafe in accordance with section 19-160.1.

§ 3. Subdivisions b, c, d, and f of section 19-160.1 of the administrative code of the city of New York, as added by local law number 121 for the year 2023, are amended, and two new subdivisions b-1 and g are added to such section, to read as follows:

b. The petition shall be in such form as prescribed by rules of the department and shall include an accurate drawing depicting required clearances, the space to be occupied, whether such cafe would operate as a year-round roadway cafe or a seasonal roadway cafe, and the locations of tables, chairs, barriers and other permitted objects; provided, however, that the department shall not require that such drawing be developed, reviewed or approved by an architect, engineer, or other professional third party. The petition shall be reviewed by the department and other relevant agencies as determined by the department.

b-1. The department may prescribe separate forms and procedures for the review of a petition for a revocable consent to operate a year-round roadway cafe where an applicant has been granted a license and revocable consent to operate a roadway cafe, and where an applicant has been granted an interim license for year-round operation of an existing roadway cafe.

c. A revocable consent for a roadway cafe shall provide for compensation to be paid annually to the city during the continuance of the consent. Such annual compensation shall be equivalent to the product of the fee rate and the square footage of a roadway cafe. There shall be 4 sectors, as described on the website of the department, provided that sectors 3 and 4 shall only include the area south of and including 125th Street in the borough of Manhattan and the fee rate for sector 1 shall apply to a minimum of 80 percent of the city.

1. The fee rate for each sector for a revocable consent for a seasonal roadway cafe shall be as follows:

Sector	**Fee Rate**
1	$5
2	$8
3	$14
4	$25

2. The fee rate for each sector for a revocable consent for a year-round roadway cafe shall be as follows:

Sector	Fee Rate
1	$6
2	$10
3	$18
4	$31

d. A roadway cafe may not be operated prior to the approval of a petition for a consent therefor by the department pursuant to chapter 14 of the charter, this section and any rules promulgated by the department, except as otherwise provided by section 19-160.6 or subdivision k of section 19-160.

f. 1. The term of a revocable consent, and the term of a renewal of such revocable consent, granted pursuant to this section shall be 1 license period and shall be concurrent with such license period. For the purposes of this subdivision, a license period shall not include the portion of the term of an interim license granted pursuant to subdivision k of section 19-160.

2. Unless the mayor has determined that separate and additional mayoral approval is not required for approval of a petition for a revocable consent or any category of such petition, such approval shall be necessary.

g. Notwithstanding any provision of a revocable consent granted to an existing roadway cafe pursuant to this section to the contrary, such revocable consent shall be deemed to have been granted for year-round operation for the remainder of the term of such revocable consent.

§ 4. Subdivision b of section 19-160.2 of the administrative code of the city of New York, as added by local law number 121 for the year 2023, is amended to read as follows:

b. The community board shall, not later than 40 days after receipt of such petition, either (i) notify the public of the petition, conduct a public hearing thereon and submit a written recommendation to the department and to the council or (ii) waive by a written statement its public hearing and recommendation on such petition and submit such statement to the department and to the council. The petitioner shall amend the petition if both

the community board and the petitioner agree to modifications in writing. Such modifications shall be reflected in the written recommendations of the community board to the department and the council. The community board shall not require the petitioner to submit or provide the community board with any written materials other than the petition and any such agreed upon modifications. If the community board submits a recommendation on a petition after the 40 day time period has expired, such recommendation may be accepted by the department at the sole discretion of the department.

§ 5. This local law takes effect immediately.

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LS #13514/17428/19556/19559
Int. #1421-2025
8/5/26 7:50 PM

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