



CITY PLANNING COMMISSION  
CITY OF NEW YORK

OFFICE OF THE CHAIR

February 22, 2022  
City Council  
City Hall  
New York, NY 10007

**Re: Open Restaurants Zoning Text Amendment**  
**N 210434 ZRY**  
Citywide

Honorable Members of the Council:

The City Planning Commission (the "Commission") has received the attached correspondence, dated February 17<sup>th</sup>, 2022, from the City Council regarding the proposed modifications to the above-referenced application submitted by the New York City Department of Transportation and Department of City Planning for the Open Restaurants citywide zoning text amendment that deletes from the Zoning Resolution Article 1, Chapter 4 and related sections.

In accordance with Section 197-d(d) of the New York City Charter, the Commission, on February 22, 2022 has determined that the City Council's proposed modifications does not require additional review of environmental issues or pursuant to Section 197-c of the Charter.

Very truly yours,

Daniel R. Garodnick

c: C. Grossman Meagher D. DeCerbo B. Huff H. Marcus  
S. Amron R. Singer

Daniel R. Garodnick, Chair  
City Planning Commission  
120 Broadway, 31<sup>st</sup> Fl. - New York, N.Y. 10271  
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THE COUNCIL  
THE CITY OF NEW YORK  
LAND USE DIVISION  
250 BROADWAY - ROOM 1602  
NEW YORK NEW YORK 10007

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February 17, 2022

Honorable Dan Garodnick, Chair  
City Planning Commission  
120 Broadway, 31st Floor  
New York, NY 10271

**Re: Application No.: N 210434 ZRY (Preconsidered L.U. No. 12)**

**Open Restaurants**

Dear Chair Garodnick:

On February 17, 2022 the Land Use Committee of the City Council, by a vote of 11-1-0 for Application N **210434 ZRY** recommended modifications of the City Planning Commission's decision in the above-referenced matter.

Pursuant to Section 197-d(d) of the City Charter I hereby file the proposed modifications with the Commission:

Matter underlined is new, to be added;  
Matter ~~struck-out~~ is to be deleted;  
Matter within ## is defined in Section 12-10;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution.  
Matter ~~double-struck-out~~ is old, deleted by the City Council;  
Matter double-underlined is new, added by the City Council

**ARTICLE I  
GENERAL PROVISIONS**

**Chapter 4  
Sidewalk Cafe Regulations**

\* \* \*

**14-01**  
**General Provisions**

The provisions of this Chapter shall be in effect only until the adoption of initial rules governing the Permanent Open Restaurants program by an authorized agency ~~the Department of Transportation~~ following authorizing legislation by the City Council.

In conjunction with the termination of this Chapter, the following provisions shall also be terminated:

- (a) defined terms in Section 12-10 (DEFINITIONS):
  - #Enclosed sidewalk cafe#;
  - #Sidewalk cafe#;
  - #Small sidewalk cafe#; and
  - #Unenclosed sidewalk cafe#;
- (b) provisions in Section 22-00 (GENERAL PROVISIONS) regarding #sidewalk cafes# in R10H Districts;
- (c) provisions regarding #sidewalk cafes# in the #Special 125th Street District#, as set forth in Sections 97-03 (District Plan and Maps), 97-13 (Permitted Sidewalk Cafe Locations), and Map 2 (Permitted Sidewalk Cafe Locations) in Appendix A of Article IX, Chapter 7; and
- (d) provisions regarding #sidewalk cafes# in the #Special Long Island City Mixed Use District#, as set forth in Sections 117-03 (District Plan and Maps), 117-05 (Permitted Sidewalk Cafe Locations), and on the Permitted Sidewalk Cafe Locations map in Appendix A of Article XI, Chapter 7.

In harmony with the general purpose and intent of this Resolution, and the general purposes of the #sidewalk cafe# regulations, certain specified regulations concerning area eligibility, sidewalk locational criteria and physical criteria for #sidewalk cafes#, in general, and specifically for #enclosed sidewalk cafes#, are herein established.

\* \* \*

**ARTICLE III**

**COMMERCIAL DISTRICT REGULATIONS**

**Chapter 2  
Use Regulations**

\* \* \*

**32-41  
Enclosure Within Buildings**

\* \* \*

**32-411  
In C1, C5, C6-5 or C6-7 Districts  
C1 C5 C6-5 C6-7**

In the districts indicated, all such #uses# shall be located within #completely enclosed buildings# except for store fronts or store windows, associated with eating and drinking establishments, which may be opened to serve customers outside the #building# upon the adoption of initial rules governing the Permanent Open Restaurants program by an authorized agency following authorizing legislation by the City Council.

**32-412  
In other Commercial Districts  
C2 C3 C4 C6-1 C6-2 C6-3 C6-4 C6-6 C6-8 C6-9 C8**

In the districts indicated, all such #uses# shall be located within #completely enclosed buildings# or within #buildings# which are #completely enclosed# except for store fronts or store windows which may be opened to serve customers outside the #building#.

\* \* \*

**Chapter 3  
Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts**

**33-00  
APPLICABILITY, DEFINITIONS AND GENERAL PROVISIONS**

\* \* \*

**33-05  
Outdoor Table Service Areas**

**Honorable Dan Garodnick, Chair**  
**Application No.: N 210434 ZRY**  
**February 17, 2022**  
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Notwithstanding any other provisions of this Resolution, outdoor table service areas, associated with eating and drinking establishments, meeting all requirements set forth in legislation by the City Council and any subsequent rulemaking by an authorized agency by the Department of Transportation shall be permitted within any required sidewalk widening areas.

\* \* \*

**ARTICLE IV**  
**MANUFACTURING DISTRICT REGULATIONS**

**Chapter 3**  
**Bulk Regulations**

**43-00**  
**APPLICABILITY AND GENERAL PROVISIONS**

\* \* \*

**43-03**  
**Outdoor Table Service Areas**

Notwithstanding any other provisions of this Resolution, outdoor table service areas, associated with eating and drinking establishments, meeting all requirements set forth in legislation by the City Council and any subsequent rulemaking by an authorized agency by the Department of Transportation shall be permitted within any required sidewalk widening areas.

\* \* \*

**ARTICLE V**  
**NON-CONFORMING USES AND NON-COMPLYING BUILDINGS**

**Chapter 2**  
**Non-Conforming Uses**

\* \* \*

**52-30**  
**CHANGE OF NON-CONFORMING USE**

\* \* \*

**52-34**  
**Commercial Uses in Residence Districts**

In all #Residence Districts#, a #non-conforming use# listed in Use Group 6, 7, 8, 9, 10, 11B, 12, 13, 14 or 15 may be changed, initially or in any subsequent change, only to a conforming #use# or to a #use# listed in Use Group 6. In the case of any such change, the limitation on #floor area# set forth in Section 32-15 (Use Group 6) shall not apply. Eating or drinking ~~places, establishments~~ with musical entertainment, but not dancing, thus permitted as a change of #use#, shall be ~~limited exclusively to the sale of food or drink for on-premises consumption by seated patrons within a #completely enclosed building#~~ subject to the enclosure provisions of Section 32-411.

\* \* \*

**ARTICLE VII**  
**ADMINISTRATION**

**Chapter 3**  
**Special Permits by the Board of Standards and Appeals**

\* \* \*

**73-24**  
**Eating or Drinking Places**

\* \* \*

**73-243**  
**In C1-1, C1-2 and C1-3 Districts**

In C1-1, C1-2 and C1-3 Districts, (except in Special Purpose Districts) the Board of Standards and Appeals may permit eating or drinking places (including those which provide musical entertainment but not dancing, with a capacity of 200 persons or less, and those which provide outdoor table service) with #accessory# drive-through facilities for a term not to exceed five years, provided that the following findings are made:

\* \* \*

- (d) that in C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C5, M1-5A and M1-5B Districts, such #use# shall ~~take place in a #completely enclosed building#~~ be subject to the enclosure provisions of Section 32-411; and

\* \* \*

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~~In connection therewith, the Board may modify the requirement of Section 32-411 (In C1, C5, C6-5 or C6-7 Districts) insofar as it relates to the #accessory# drive-through facility. The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

\* \* \*

**Article VIII - Special Purpose Districts**

**Chapter 3**  
**Special Limited Commercial District**

\* \* \*

**83-00**  
**GENERAL PURPOSES**

\* \* \*

**83-05**  
**Enclosure of Uses**

All permitted #uses# shall be ~~located within #completely enclosed buildings#~~ be subject to the enclosure provisions of Section 32-411.

\* \* \*

Please feel free to contact me at [AHuh@council.nyc.gov](mailto:AHuh@council.nyc.gov) if you or your staff have any questions in this regard.

Sincerely,



.....  
Arthur Huh,  
Assistant General Counsel

**Honorable Dan Garodnick, Chair**  
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AH:mcs

C: Members, City Planning Commission  
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