



March 28, 2022

Testimony of Acting Chief of Department John Hodgens, FDNY
Oversight Hearing: Use of Propane

Good morning Chair Ariola and all Council Members present. My name is John Hodgens and I am the Acting Chief of Department at the New York City Fire Department. I am joined today by Joseph Jardin, Chief of the Bureau of Fire Prevention, and by Kelly Carr, Deputy Fire Code Development Counsel. Thank you for the opportunity to weigh in on the proposed legislation, Introduction 29.

When I appeared in front of this committee last month, one of the statistics that we reported was that in 2021, New York City had fewer than 100 fire deaths. We pointed out that this was the 16th consecutive year in which fire deaths remained under that threshold. This is significant, given that it was not long ago that New York City experienced hundreds of fire deaths a year. One of the key factors in the City's success over the last two decades has been a strong New York City Fire Code. We urge the Council to be especially deliberative when considering measures that would weaken the Code, particularly in the area of hazardous materials such as propane.

As the Councilmembers are aware, during the early stages of the COVID 19 pandemic, then-Mayor de Blasio issued an executive order temporarily prohibiting restaurants from admitting patrons inside their establishments. He also issued an executive order temporarily suspending certain requirements in order to help the restaurant industry utilize outdoor dining structures

instead. When the Fire Department was asked to consider suspending the prohibition on using propane as comfort heating, we had several significant concerns.

Propane is combustible at a wide range of concentrations. Liquid propane is colorless and odorless, and it becomes up to 270 times more expansive when it is converted to gas. It can be used safely with proper precautions. We can all picture a standard 20-pound propane tank used with a grill outside in a yard or a park, for instance, and this sort of use can be fairly low-risk. However, widespread use of propane in a dense urban environment transforms the level of risk into a far more hazardous scenario. Propane gas is heavier than air, which means that it can accumulate in confined spaces. If a propane canister has a leak, the gas can collect in enclosures, subways, cellars, and basements. In 2009, the contents of a single 20-pound propane container ignited and destroyed a building in Flushing, causing the front wall of a two-story brick rowhouse to crumble, blowing out the back wall, projecting debris across the yard, driveway, and street, and damaging a neighboring house.

Restaurants using propane for comfort heating creates a situation in which multiple propane tanks are being used with open flames in a relatively small area, often with diners sitting in close proximity and wait staff and patrons moving around nearby. The use of comfort heating in a typical outdoor dining setting produces a variety of serious challenges.

Beyond the dangers of propane use, the Department is also very concerned about the transport and storage of propane. The volume of propane necessary to support the New York City

restaurant industry requires the delivery and storage of thousands of propane tanks on a daily basis. We don't need to rely on conjecture about how it would work if this legislation were to become law because we saw how it played out in 2020 and the results were troubling.

The period two winters ago when the restriction was lifted led to a significant number of hazards across the city. We saw widespread noncompliance with the basic rules for operating propane-fueled heaters. Many restaurants attempted to circumvent safe storage requirements. Firefighters and fire prevention inspectors routinely encountered unlawful storage of propane associated with outdoor dining areas. In some of the most egregious incidents, canisters of propane were found on roadways, below fire escapes, concealed by planters, and even inside the barriers designed to provide vehicle impact protection. The Fire Department issued 70 summonses and 1300 violation orders during this period for a variety of issues, including flagrant violations of unsafe storage of propane and failure to maintain safe distance requirements. We have some photos to help illustrate a few of the hazardous conditions that we encountered that I will show at the conclusion of my testimony.

As dangerous as many of the storage situations at restaurants were, even greater hazards occurred among the industries necessary to supply the increased demand for propane. The most serious incident occurred in December 2020 when a truck making propane deliveries flipped on its side and burst into flames in the westbound lanes of the Long Island Expressway in Queens, directly in front of Lefrak City. The truck was carrying approximately 300 20-pound propane cylinders. It exploded into a large fireball which was followed by a series of numerous explosions.

This was a very dangerous situation. There was a large volume of fire, with a plume of flames at times reaching the heights of nearby 18-story buildings. Though the explosions and ensuing fire occurred on an expressway, the heat was so great that firefighters on scene became concerned that a shift in the wind might cause windows in nearby dwellings to fail and lead to apartment fires. Propane canisters continued to explode, with many becoming projectiles flying through the air for a hundred feet or more, striking nearby buildings and vehicles. The name that we use for this type of explosion is a BLEVE, which is a firefighting term that describes boiling liquid expanding vapor explosions. This incident led to upwards of a hundred BLEVEs. With propane containers exploding in every direction, and it was a minor miracle that none of them struck any first responders or civilians on the expressway or the surrounding areas. We are very lucky that tragedy was avoided.

The string of multiple explosions and propane containers becoming missiles initially made it impossible to respond as we normally would to fight a vehicle fire. One fire officer later described feeling unsettled as he could see, hear, and feel the explosions three hundred feet away. Initially unsure how to approach, firefighters ended up crawling along the jersey barrier of the expressway to shield themselves from the explosions. They crept to within about 150 feet of the truck, where they used hoselines to begin fighting the fire. A battalion chief on scene described the situation as extremely dangerous, noting that the members really put themselves at risk, particularly given the number of BLEVEs. The Bureau of Operations found the incident so

concerning that we created a training video to show other firefighters what they would be dealing with if a situation like it occurred again.

I know words may not do it justice, so we brought a video of this event just to give you a good idea of what we're talking about. We'll play the video at the conclusion of my testimony.

You can see why the Fire Department has been so reluctant to change the rules again to invite businesses to move thousands of additional propane containers in and out of the City every night. We know from experience that many would be stored and concealed in unsafe ways. At the height of a pandemic, the City took a lot of unusual measures with no intention or expectation that they would become a permanent part of life. This brief experiment, used to help prop up restaurants when they were unable to seat patrons indoors, gave us a winter with numerous problems. We are extremely fortunate that nobody was killed. Since that time, we have successfully completed a winter season in which restaurants were not permitted to use propane for comfort heating. Through their own talent, resilience, and creativity, the restaurant industry has learned to provide comfort heating without the use of a dangerous combustible like propane.

In my view as Acting Chief of Department, this legislation – while well-intentioned – seriously underestimates the significant and potentially deadly hazard to firefighters and the people of New York.

At this time, I'll show some of the photos and the video that I mentioned and then we would be happy to answer any questions.

Jeannine Kiely, *Chair*
Susan Kent, *First Vice Chair*
Valerie De La Rosa, *Second Vice Chair*
Bob Gormley, *District Manager*



Antony Wong, *Treasurer*
Eugene Yoo, *Secretary*
Ritu Chattree, *Assistant Secretary*

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March 25, 2022

Hon. Joann Ariola
Chair, Committee on Fire and Emergency Management
New York City Council
250 Broadway, Suite 1555
New York, NY 10007

Dear Council Member Ariola:

At its Full Board meeting March 24, 2022, Community Board #2, adopted the following resolution:

Resolution Objecting to the Permanent Authorization of Liquefied Petroleum Gas in Propane Tanks for Outdoor Dining: Intro 0029-2022 Outdoor gas fueled heating devices

- Whereas** liquefied petroleum gas, known as propane, is illegal to possess, use, or store in a cylinder or container per New York City Fire Code;
- Whereas** the use of liquefied petroleum gas in portable outdoor heating devices, known as propane heaters, for outdoor dining setups is not currently authorized under the New York City Fire Code;
- Whereas**, currently, only two forms of portable heating devices are allowed in outdoor dining setups:
 - Piped natural gas is allowed for use in portable heating devices used in outdoor dining setups and electric heaters,
 - Electric heaters are allowed for use as portable heating devices used in outdoor dining setups;
- Whereas** Intro 00229-2022 seeks to permanently amend the New York City Fire Code to authorize the permanent use, possession, and storage of liquefied petroleum gas in portable outdoor heating devices;
- Whereas** in its testimony to Manhattan Community Board 2 (CB2) on December 7, 2020, FDNY recommended that restaurants participating in the Temporary Open Restaurants program should stick to electric heat or piped natural gas heat as allowed during the pre-pandemic Sidewalk Café program;

6. **Whereas** in its previous testimony to CB2 on December 7, 2020, FDNY testified that a portable heating device fueled by liquified petroleum should be a minimum of ten feet (10') from any building entrance, window, or ventilation, and the proposed legislation only calls for a five-foot (5') clearance from buildings/structures and exits with no mention of clearances for windows and/or ventilation;
7. **Whereas** in its previous testimony to CB2 on December 7, 2020, FDNY also testified that if chairs and tables were made of combustible materials that a five-foot (5') clearance should be maintained between the portable heating device filled with liquified petroleum gas and the combustible-material chairs and tables, however, the proposed legislation only calls for a five-foot (5') clearance to combustible decorations, combustible overhangs, combustible awnings, combustible sun-control devices, and/or combustible attachments to materials or structures;
1. **Whereas** in its previous testimony to CB2 on December 7, 2020, FDNY further testified that one (1) portable heating device filled with liquified petroleum gas should have a five-foot (5') clearance from another separate portable heating device filled with liquified petroleum gas, however, the proposed legislation does not include any language to designate clearances between portable heating devices;
8. **Whereas** the Environmental Protection Agency (EPA) estimates that a single eighteen-pound (18 lbs.) propane tank emits .024 metric tons of carbon dioxide¹, which is equivalent to driving 60 miles in a car or charging a smartphone 3,061 times, which would excessively contribute to environmental pollution and accelerate climate change;
9. **Whereas** climate change is a critical issue for Manhattan Community Board 2;
10. **Whereas** there are buildings that are not up to fire code, due to their existence prior to the creation of the New York City Fire Code, that would be adjacent to propane heaters;
11. **Whereas** the volatility of liquified petroleum gas on the streets of the city presents a danger to public safety and was attested to by FDNY at both the October 27, 2021, and December 7, 2020 CB2 Reopening Working Group meetings on outdoor dining;
12. **Whereas** the temporary use of liquified petroleum gas last winter, per Mayoral Executive Order 153, resulted in illegal on-premise storage of propane tanks in cages directly adjacent to residential entrances within buildings and in basements and also illegal use of propane heaters in roadway dining setups, creating a hazardous environment;
13. **Whereas**, on Thursday, October 21, 2021, the previous New York City Administration, based on their consultation with FDNY, commented that the FDNY is the expert on health and safety

¹ [Outdoor Heaters and Climate Change, New York Times, November 27, 2020.](#)

when it comes to propane and expressed agreement with FDNY's strong position that propane needs to be phased out.²

14. Therefore, Be It Resolved, Manhattan CB2 strongly opposes Intro 0029-2022 Outdoor gas fueled heating devices which would authorize the use, storage, and possession of liquified petroleum gas by amending the New York City Fire Code;

Vote: Passed, with 36 Board Members in favor.
1 Against (R. Sanz)
2 Abstain (R. Kessler, K. Shea)

Please advise us of any decision or action taken in response to this resolution.

Sincerely,



Jeannine Kiely, Chair
Community Board #2, Manhattan



Valerie De La Rosa, Chair
Reopening Working Group
Community Board #2, Manhattan

JK/EM

c: Hon. Eric Adams, New York City Mayor
Hon. Mark Levine, Manhattan Borough President
Hon. Adrienne Adams, New York City Council Speaker
Hon. Erik Bottcher, New York City Council Member
Hon. Christopher Marte, New York City Council Member
Hon. Carlina Rivera, New York City Council Member
Hon. David M. Carr, New York City Council Member
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Hon. Oswald Feliz, New York City Council Member
Hon. James F. Gennaro, New York City Council Member
Hon. Robert F. Holden, New York City Council Member
Hon. Keith Powers, New York City Council Member
Hon. Lincoln Restler, New York City Council Member
Hon. Kevin C. Riley, New York City Council Member
Hon. Lynn Schulman, New York City Council Member
Hon. Marjorie Velasquez, New York City Council Member
Hon. Kalman Yeger, New York City Council Member
Hon. Brad Hoylman, New York State Senator
Hon. Brian Kavanaugh, New York State Senator

² [NYC to reinstate ban on propane heaters, NY1, October 21, 2021](#)

Hon. Deborah Glick, New York State Assemblymember
Hon. Yuh-Line Niou, New York State Assemblymember
Hon. Harvey Epstein, New York State Assemblymember
Laura Kavanagh, Acting FDNY Commissioner

Chairwoman Ariola and Councilmembers,

On behalf of ROAR, representing over 1,000 independently operated restaurants across NYC, we write today to encourage you to swiftly pass Int 0029, which will authorize the use of portable gas-fueled heating devices. In the midst of the pandemic, with hundreds of restaurants closing their doors monthly, outdoor dining made it possible for so many New Yorkers to remain employed during a difficult time. With nearly 24,000 restaurants employing 317,000 New Yorkers, the industry continues to be a major source of revenue for both the City and the State. Without outdoor dining thousands more restaurants would be closed today, and there is no outdoor dining without propane.

Propane is an inexpensive, practical resource for restaurants to use at their outdoor structures. Electrical heaters are not comfortable enough for guests, practical enough for the voltage needed, and much more expensive. Additionally, gas lines are nearly impossible to construct without spending tens of thousands in construction costs due to the age of so many buildings in New York.

Over the course of time when propane was permitted, there were no reported incidents as a direct result of propane. And as the future of the permanent outdoor program is being determined, this is one aspect that works for all restaurants. We hope to have the opportunity to use this safe and practical resource once again.

Thank you,
Jayme Rothman, Executive Director of ROAR

Dear Councilmembers:

Thank you for your continuing service to New York City.

I am asking you to vote No on Intro 0029-2022.

The perils of the usage of propane heaters in outdoor dining setups are real and present especially for those of us who live at 33 Greenwich Avenue, New York, New York 10014.

American Bar, a restaurant that occupies the ground floor of our building, historically had propane heaters under its roadbed dining shed and directly abutting the sidewalk tables and chairs in front our building during 2020 and 2021.

Despite multiple 311 complaints being filed, residents were unable to obtain enforcement to remove the propane heaters until the weather sufficiently warmed up.

Even the Environmental Control Board, which issued a violation against BLF Big Apple LLC which is the Operator of American Bar, removed the penalty that the restaurant was assessed.

There have been multiple community meetings held on Zoom where local FDNY personnel have reiterated that propane heaters are extremely dangerous.

The City does not have the staffing levels to ensure compliance on the part of its restaurants.

Without daily enforcement there would be no certainty for us that American Bar's management and staff would obey any propane regulations.

Without daily enforcement we risk the restaurant's placement of propane tanks behind and/or within the restaurant and transporting the tanks through the building.

Allowing American Bar to have propane heaters would place the lives of residents in our 150 unit building at risk on a daily basis.

Equally as concerning for those of us who live in Greenwich Village is that we are surrounded by many buildings that were built in the mid-1800's and are largely wood framed.

A fire would race through these buildings with ease.

It is not acceptable to put the life of anyone at risk to simply provide an ambient dining comfort level for a restaurant's patrons?

I ask that you not ratify Intro 0029-2022.

Robin Felsher

Testimony submitted to the NY City Council Committee on Fire and Emergency Management
Council Member Joann Ariola, Chair
March 24, 2022

Intro 0029-2022, allowing the use of propane-fueled heaters in outdoor settings, lifts a decades-long prohibition on the practice. Portable propane (LP gas) heaters are a serious fire hazard, and I urge this committee to oppose their use for outdoor comfort heating. Public safety should be the Number 1 priority in all evaluations about whether they should be permitted in NYC.

When Mayor de Blasio announced in 2020 that restaurants could use propane heaters for outdoor dining, local propane vendors were completely overwhelmed with orders. Soon NYC restaurant customers couldn't purchase propane locally due to the demand. So instead, restaurant owners took their vehicles to New Jersey or Long Island and purchased propane tanks from Home Depot or other retail suppliers. Then they loaded the tanks into their cars and transported them to NYC. If more than two 20-lb tanks were being transported, this practice was illegal.

FDNY regulations required that those tanks were to be removed from the restaurant premises at the end of business each day, and stored in a secure facility. This did not happen. Restaurant owners stacked the tanks up in their cars, or inside the restaurant premises - also an illegal practice.

I observed this practice directly. At a restaurant nearby to where I live, I witnessed an ever-changing number of floorstanding propane portable patio heaters being placed outside. Where were the "extra" heaters being stored? Once I saw workers drag one into the restaurant. I also saw that tanks were regularly kept inside the outdoor heaters overnight, after close of business.

During same the time in 2020 - 2021 when propane heaters were temporarily permitted for outdoor dining, there were rules in place establishing minimum distances between these heaters and flammable materials. In my neighborhood in lower Manhattan, these rules were almost universally ignored (see photos). I regularly saw mushroom-style floorstanding heaters placed with inches of wood dining sheds, decorative dried twigs and artificial flowers, and canvas awnings. One local restaurant had a habit of placing 4 or 5 heaters in the middle of the sidewalk leading up to its premises, such that pedestrians traveling along that route came dangerously close to the burners with their heads as they passed by.

The above real-world problems and public safety hazards that were found during the 2020 temporary lifting of the propane heater ban should be sufficient to keep this prohibition in place.

There are also serious environmental impacts in allowing the use of these fossil-fuel-burning devices to heat the outdoors at the approximately 12,226 Open Restaurants sites currently operating in New York City. Using a very conservative estimate of 5 portable heaters per site, there will be a minimum of 61,130 heaters in use if the ban is lifted. The CO2 emissions from 61,130 propane heaters operating during a cold-weather season of 6 months are significant. In 2019 the NY City Council issued a resolution declaring a climate emergency; introducing tens of thousands of carbon-generating devices into our urban streetscape is environmentally irresponsible. NYC recently became the largest city in the U.S. to ban natural gas in newly-constructed buildings in an effort to fight climate change. Int 0029-2022 is completely inconsistent with the city's own stated goal of phasing out the combustion of fossil fuels.

Please do not lift the ban on the use of propane heaters for outdoor comfort heating. Thank you.

Cheri Leon
NYC Resident



Improper propane tank storage



Improper propane tank storage



Improper propane tank storage; propane heaters too close to combustible materials

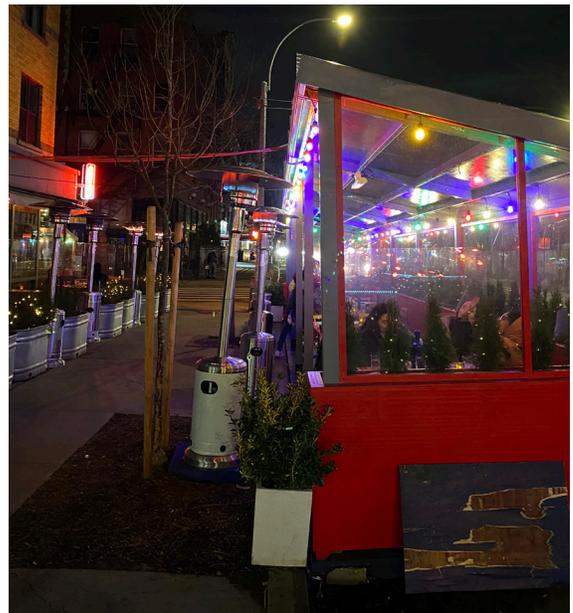




Propane heaters inside enclosure and placed within 12" of combustible materials (wood)



Propane heaters too close to combustible materials



Propane heaters too close to combustible materials, extension cords



Propane heaters too close to combustible materials

Testimony of Leslie Clark
West 4th Street, New York, NY 10014

Dear City Council Members –

I attended the Monday, March 28 hearing of the Fire and Emergency Management Committee with the intention of opposing Int 0029-2022. I was going to testify to the danger of using propane – a heavier-than-air gas – in the outdoor dining program. If propane were to be used in this city-wide program, there would be literally tens of thousands of cans of this explosive gas in use – and in transport – throughout the city.

As City Council Member Holden commented in the hearing, there should always be a balance between benefit and danger. In this case, the benefit would be to restaurant owners to increase their profits in the winter months. The danger, however, would be to life and limb throughout the city every day this gas is in use.

Like many of the others who were prepared to testify against the use of this gas, I threw away my prepared comments when I listened to the excellent testimony of NYPD Fire Chief John Hodgens. Chief Hodgens dramatic testimony as to the dangers of transporting and storing this gas throughout the city was far better than anything that I could offer. Video of exploding propane tanks on a major city highway should be enough to kill this bill and this practice. Photographs of how haphazardly and casually this gas has been stored and used by restaurant owners in the past should also be enough to kill this bill.

I have noted that there are several bills on the April 11 agenda of this committee that are meant to retroactively “fix” problems that caused the devastating fire in the Bronx in January: a bill that would require all space heaters sold in New York to have automatic shut-off options – to prevent the situation that caused that Bronx fire in the first place; and a bill that would require all doors in apartment buildings to close automatically – to prevent the situation that caused that Bronx fire to spread so quickly. The causes of the Bronx fire were indeed preventable. And the cause of a future tragedy caused by the widespread use of propane is also preventable.

This committee now has the opportunity to prevent a tragedy rather than fix one.

If this propane bill were to pass and there were to be a devastating fire with loss of life, this committee would be in a terrible position of responsibility for not only allowing it to happen, but having encouraged it. I hope you will take the path of prudence and vote NO on Intro 0029-2022.

Thank you.