

New York City Department of Transportation

Notice of Adoption

NOTICE OF ADOPTION relating to the establishment of a pilot program at five pedestrian plazas allowing for up to 20% of all seating in those pedestrian plazas where there is a concession, to be for the exclusive use of patrons, subject to the agency's review and approval.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the New York City Department of Transportation (DOT) by Sections 1043 and 2903 of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter, that DOT hereby amends Section 4-16 of Chapter 4 of Title 34 of the Rules of the City of New York.

This rule was first published on January 14, 2020 and a public hearing was held on February 13, 2020. DOT received written and oral comments from two members of the public.

Statement of Basis and Purpose of Final Rule

The Commissioner of the New York City Department of Transportation (DOT) is authorized to promulgate rules regarding parking and traffic operations in the City by Section 2903(a) of the City Charter. The rules that DOT amends are contained within Chapter 4 of Title 34 of the Rules of the City of New York, relating to the "Traffic Rules and Regulations."

DOT is establishing a pilot program in five specifically-identified pedestrian plazas, in order to bolster the viability of pedestrian plaza concessions where there are limited concession opportunities, limited partner capacity, and where activation is greatly needed for the overall management of the space.

This rule establishes a pilot program at (1) Fordham Pedestrian Plaza, (2) Myrtle-Cooper Pedestrian Plaza, (3) Myrtle-Wyckoff Pedestrian Plaza, (4) Diversity Pedestrian Plaza, and (5) Corona Pedestrian Plaza. The program will allow for no more than 20% of all seating in the pedestrian plaza where there is a concession to be reserved for patrons, subject to DOT review and approval. Additionally, the rule makes clear that this exclusive seating concept would not be considered a sidewalk café and would not require a sidewalk café license and revocable consent.

Specifically, the amendments to the DOT Rules being proposed are as follows:

- Section 4-16(b) would be amended by adding a new paragraph establishing a pilot program allowing for exclusive seating at up to 20% of all seating at five specifically-identified pedestrian plazas.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subdivision (b) of Section 4-16 of Chapter 4 of Title 34 of the Rules of the City of New York is amended by adding a new paragraph (9) to read as follows:

(9) Subject to the Department’s prior written approval, the Pedestrian Plaza Partner at Fordham Pedestrian Plaza, Myrtle-Cooper Pedestrian Plaza, Myrtle-Wyckoff Pedestrian Plaza, Diversity Pedestrian Plaza, and Corona Pedestrian Plaza may permit its subconcessionaire(s) to designate a portion of the available seating within such Pedestrian Plaza for exclusive use by the subconcessionaire(s)’ customers or patrons, provided that the total sum of such exclusive seating does not exceed 20% of the total available seating within such Pedestrian Plaza. In the absence of a Pedestrian Plaza Partner, this paragraph does not preclude the Department from designating such exclusive seating at any of these five Pedestrian Plazas. Such exclusive seating does not require a sidewalk café license and revocable consent pursuant to subchapter 6 of Title 20 of the New York City Administrative Code nor is it considered a “sidewalk café” as defined in subchapter 6 of Title 20 of the New York City Administrative Code.

(i) For purposes of this paragraph, the term “Fordham Pedestrian Plaza”, means the area located at Fordham Road, Third Avenue and East 189th Street in the Bronx that is designated by the Department for pedestrian circulation, use and enjoyment.

(ii) For purposes of this paragraph, the term “Myrtle-Cooper Pedestrian Plaza” means the area located at 70th Street between Myrtle and Cooper Avenues in Queens that is designated by the Department for pedestrian circulation, use and enjoyment.

(iii) For purposes of this paragraph, the term “Myrtle-Wyckoff Pedestrian Plaza” means the area located at Wyckoff Ave between Myrtle and Gates Avenues in Queens that is designated by the Department for pedestrian circulation, use and enjoyment.

(iv) For purposes of this paragraph, the term “Diversity Pedestrian Plaza” means the area located at 37th Road and 73rd Street between 74th Street and Roosevelt Avenue in Queens that is designated by the Department for pedestrian circulation, use and enjoyment.

(v) For purposes of this paragraph, the term “Corona Pedestrian Plaza” means the area located at Roosevelt Ave between National and 104th Streets in Queens that is designated by the Department for pedestrian circulation, use and enjoyment.

(vi) For purposes of this paragraph, the term “subconcessionaire(s)” means an entity who has entered into an agreement with a Pedestrian Plaza Partner that is authorized by the Department and subject to Title 12 of the Rules of the City of New York.