

March 24, 2003

Consumer Affairs Sets Final Fees for Sidewalk Cafés

Streamlined Process, Increased Enforcement, and Fair Consent Fees

New York City Department of Consumer Affairs (DCA) Commissioner Gretchen Dykstra today announced final revisions to the consent fees set by the agency for sidewalk cafés - the annual fee restaurants pay for use of the City's public sidewalks. DCA was given the authority to set the consent fees as part of the new, more efficient streamlined sidewalk café process passed unanimously by the City Council in January. The fees will become effective Friday, March 28, 2003.

The new streamlined process recently advanced by Mayor Bloomberg and Commissioner Dykstra creates a more efficient system and makes it easier for businesses to operate legally. The new process will also strengthen enforcement. City agencies, restaurant owners, communities, and advocates worked together to improve dramatically a system that was unnecessarily burdensome to the City, business owners who wanted to operate cafés and communities frustrated by recurring problems. The approval process, often taking as much as a year and a half, will be reduced to a maximum of 110 days while still including full public review by Community Boards and approval by the City Council. Since passed, 34 new applications have already been filed with DCA, which represents a 4% increase in the current total number.

After a full review of public testimony and follow-up with restaurant owners and community groups, DCA has made the following revisions:

- **Increase base square footage from 20 to 70-square feet.** The final fee structure will give an extra 50-square feet in base fee, giving a break especially to smaller cafés.
- **Charge same rate for both enclosed and unenclosed cafés for each additional square foot after initial 70.** Charging \$30 in Zone 1 and \$22.50 in Zone 2 for each additional square foot – as opposed to previously proposed \$60 in Zone 1 and \$45 in Zone 2 – gives a significant break to enclosed cafés, given they do not have the flexibility of unenclosed cafés and reflect a much greater capital investment.
- **Change boundaries of Zone 2.** Restaurants below Canal Street in Manhattan would be added to Zone 2, which pays 25% less than Zone 1. This will assist ongoing revitalization efforts in Lower Manhattan.
- **Allow quarterly payment plan.** Restaurants will be able to pay DCA the annual consent fee every three months without interest rather than in one lump sum.
- **Allow cancellation of consent after one year for unenclosed cafés.** If a restaurant on the quarterly payment plan determines that its unenclosed café does not meet its business goals, DCA will allow cancellation of consent before June 30 of any year without incurring charges for the remaining year.

"Sidewalk cafés are – and will continue to be – a fabulous amenity," said DCA Commissioner Gretchen Dykstra. "The price for using public sidewalks has been too low for too long. Given the large number of new applications and reviewing testimony from the public hearing, I am



confident that this is a solution that reflects both fair market value and the legitimate concerns raised. We thank all those who participated in the public process including restaurant owners, community boards, and government agencies who worked together to create a system that works."

"We have worked closely with DCA over the past year to develop the improved streamlined process with stricter enforcement for sidewalk cafes and are fully supportive of the final fee revisions made by Commissioner Dykstra," said Chuck Hunt, Executive Vice President of the New York State Restaurant Association. "We had been aware that there would be an increase in fees, yet we were always confident DCA would make a fair decision. I applaud the City for listening to our concerns and engaging in a process that was productive and results that are fair."

"The final fees set by DCA are a reasonable amount for restaurants to pay for operating sidewalk cafés in New York City – both unenclosed and enclosed," said Doug Griebel, partner and co-owner of Rosa Mexicano. "The City has been responsive to our concerns and worked hard to put a system in place that for years had been a headache for owners."

Under the revised rules, DCA created two payment "zones" citywide – Zone 1 includes Manhattan from 96th Street to Canal Street and Zone 2 includes areas south of Canal Street and everywhere else in the City. The base fee was derived from existing commercial rates and reflects fair market value for New York City's sidewalks.

For example, an enclosed café in Jackson Heights, Queens that now pays \$4,000 a year for 307 sq. feet will pay \$8,213 a year, down from the originally proposed \$15,795. An enclosed café with 808 sq. feet on the Bowery in Manhattan that now pays \$13,000 will pay \$25,980 a year, down from the originally proposed \$51,120. An enclosed café in Howard Beach that now pays \$9,500 for 820 sq. feet will pay \$19,755, down from the originally proposed \$38,880. An enclosed café in Marine Park, Brooklyn that now pays \$5,338 a year for 488 sq. feet will pay \$12,285 a year, down from the originally proposed \$23,940.

An unenclosed café on Manhattan's Upper West Side that now pays \$3,052 for 279 sq. feet will now pay \$8,190, down from the originally proposed \$9,690. An unenclosed café on Montague Street in downtown Brooklyn that now pays \$435 for 53 sq. feet will pay \$1,440, down from the originally proposed \$2,182. An unenclosed café on Northern Blvd. in Queens that now pays \$409.50 for 75 sq. feet will pay \$1,553, down from the originally proposed \$2,678. An unenclosed café in Tribeca that now pays \$787 for 96 sq. feet will now pay \$2,025, down from the originally proposed \$3,150.

"The new process is allowing us to approve both new and renewal licenses faster, in fact we have already received 34 brand new applications. They were turned around in just five days and are now on their way to Community Boards for review," added Commissioner Dykstra. "This assures me that sidewalk cafés are thriving in the City and that the number will continue to increase."

The new law also strengthens DCA's enforcement authority allowing the City, for the first time, to close restaurants that repeatedly break the unenclosed sidewalk café rules. Operators of



unlicensed sidewalk cafes who violate the law two times may have their restaurants padlocked for up to thirty days after the second violation. Licensed operators who encroach illegally on the sidewalks may have their restaurants padlocked for up to thirty days after the third violation.