



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

February 11, 2025

Deputy Mayor Meera Joshi
Office of the Mayor
City Hall
New York, NY 10007

Commissioner Ydanis Rodriguez
New York City Department of Transportation
55 Water Street, 9th Floor
New York, NY 10041

Re: Dining Out NYC Program

Dear Deputy Mayor Joshi and Commissioner Rodriguez:

I am writing to express my grave concern that the Adams Administration is poised to fail thousands of restaurants who have applied to the Dining Out NYC program. While the Department of Transportation (DOT) reports that over 3,500 restaurants have applied to Dining Out NYC, so far only 40 restaurant applications have been approved by DOT and submitted to my office for registration as required by law. The remainder are waiting anxiously, without the certainty they need to plan for their businesses prior to the program start date on April 1.

I am concerned that the Adams Administration burdened the program with bureaucratic requirements that dissuaded thousands of restaurants from applying at all, and then failed to provide City agencies with the resources and accountability needed to implement it for those who did in a timely fashion. The City's failure to approve a backlog of applications will result in thousands of jobs and millions of dollars in lost revenues, wages, and income tax to the City.

Outdoor dining was authorized by a mayoral emergency executive order on October 14, 2020 to offer a lifeline to restaurants enduring the immeasurable economic hardships of the pandemic and New Yorkers a way to dine safely during COVID-19.¹ At the height of the program, 12,500 restaurants participated in outdoor dining,² including over 9,000 restaurants with roadway cafés in parking spaces.³

The pandemic-era outdoor dining program generated significant economic benefits. Based on our office's economic analysis, outdoor dining created 11,720 jobs, resulting in \$373 million of total annual wages, and \$9.6 million of annual income tax to the City at the peak of the program. Outdoor dining also offered restaurants the opportunity to activate 2.4 million square feet of street space, which would have cost restaurants an estimated \$156.4 million in total annual commercial rent.

¹ City of New York. October 14, 2020. Emergency Executive Order No. 153.

<https://www.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-153.pdf>

² Durkin, E. January 21, 2025. "NYC's First Winter Since the City Banned Outdoor Dining: 'Terrible,' 'Perverse,' and 'Isolating.' *Hell Gate*." <https://hellgatenyc.com/first-winter-since-nyc-banned-outdoor-dining/>

³ NYC Open Data. Open Restaurant Applications (Historic). <https://data.cityofnewyork.us/Transportation/Open-Restaurant-Applications-Historic-/pitm-atqc/data>

While it offered a critical lifeline to restaurants and New Yorkers, the pandemic-era program was by necessity implemented in an emergency. Restaurants built improvised, temporary sheds all across five boroughs without sufficient oversight or regulations for the long term. To address these issues, in August 2023, the City Council passed Local Law 121 to make the outdoor dining program permanent alongside regulations that sought to ensure more order and uniformity.

Unfortunately, the new Dining Out NYC program established by City Hall created such onerous logistic and financial burdens that many restaurants have chosen to stop participating in outdoor dining altogether. Restaurants found the switch to a seasonal program financially and operationally restrictive: restaurateurs estimated the cost of purchasing, installing, deinstalling, and storing outdoor dining sheds and furniture to be roughly \$40,000-\$60,000 per year. Restaurants were also deterred by other changes, such the inability to use space from neighboring storefronts or build enclosed covered sheds to protect against the elements.

These burdensome program requirements have dramatically shrunk the program. Hellgate reported that DOT received 2,592 applications to the new program as of August 2024—an 80% decrease from the height of the previous open restaurants program. DOT reported to my office that they anticipate a total of 3,500 applications for the spring outdoor dining season.

Now, I am concerned that even for this smaller number of restaurants that have applied for the program, the Adams Administration is mismanaging the process.

My office has worked closely and diligently with mayoral agencies in an effort to prepare efficiently for this new program. In anticipation of an influx of permit applications, my Bureau of Contract Administration prioritized planning for our important role of registering permits as mandated in the New York City Charter. In parallel to the opening of the application portal in March 2024, we worked closely with DOT and the Financial Information Services Agency (FISA) over several months to develop a streamlined process for processing outdoor dining permits and to create a unique Award Method (AM) code in the City's Financial Management system (FMS) specifically for the Dining Out NYC program. This innovation makes it easier for the City to monitor its submission goals, and for the public to track permits on transparency platforms like [Checkbook NYC](#). To spare DOT staff from having to deliver thousands of permit packages in person, our office also developed an electronic filing portal specifically to handle Dining Out NYC permits (launched in June 2024), working closely with DOT to ensure systems compatibility and user ease.

To further expedite the approval process, my office agreed to grant Dining Out NYC applicants the authority to operate outdoor cafes immediately as soon as DOT files their permits with my office. On September 16, 2024, pursuant to the New York City Charter Section 375, the New York City Administrative Code Section 19-160.6(b), and the Rules of the City of New York Title 34 Section 5-08(b), the Comptroller's Office and DOT entered into a consent agreement to codify this process. We quickly and closely collaborated with DOT to effectuate our consent authority, thereby allowing permits to be legally operable without having approved permit applicants wait any longer (up to 30-calendar days, the timeframe afforded to us under the Charter) to finalize registration. The consent agreement was in place in time for when DOT indicated to our Office that we could expect significant amounts of approved permits to be ready for filing.

Despite our efforts, DOT has failed to approve permits in a timely manner. According to FMS, as of February 2025—11 months after the Dining Out NYC application period first opened, and 6 months after the program start-date in August—DOT has only filed 40 permits with our office for registration (1 in September, 11 in October, 4 in November, 13 in December, and 11 in January).

More recently, as the scale of DOT's shortcomings in this process have become clear, Deputy Mayor Joshi requested that our office not only allow permits to be legally operable as soon as they are submitted to us (which we granted on September 16, 2024), but also allow DOT to issue temporary outdoor dining permit authorizations *prior to the application even being submitted to our office*, taking the Administration's word that it was appropriately approved, even though we would have no evidence whatsoever. The City Charter makes clear that we are not allowed to grant a permit prior to its submission to our office.

We are fast approaching the 2025 outdoor dining season, with only two months left prior to the start date of the program on April 1, 2025. The vast majority of restaurants who have applied to participate in Dining Out NYC still do not know whether they will be able to operate outdoor cafés this spring. Restaurants need advance notice to purchase materials and arrange for installations of their outdoor café spaces to maximize the outdoor dining season.

We implore DOT to process and file with our office all Dining Out NYC applications currently in its queue by the end of the month (February 28, 2025) in compliance with the law so that restaurants have appropriate notice to plan for the upcoming outdoor dining season.

In addition, the NYC Hospitality Alliance has been working with restaurants to develop recommendations to improve the program. We call on the administration to implement the following recommendations from the Alliance immediately, working in partnership with City Council for the recommendations that require legislative actions:

1. **Commit DOT to a clear application processing time.** Just as the Comptroller has a 30-day timeline for contract/permit registration, DOT should commit to a standard processing time for all Dining Out NYC applications so that restaurants can make appropriate and timely decisions about their own operations. Such a timeline should account for any clarifications or back-and-forth correspondences that may be required between DOT and the applicants.
2. **Offer an option for year-round roadway dining.** The seasonal nature of Dining Out NYC is cost-prohibitive and operationally challenging for most restaurants. DOT should offer a roadway café design option that can be permissible throughout the year.
3. **Permit safe sidewalk café enclosures.** Restaurants will be able to operate sidewalk cafés through more seasons and weather conditions if they can enclose the cafés. Such enclosures should, of course, be pursuant to all DOB and FDNY safety standards.
4. **Allow more flexibility for safe sidewalk café clearances.** Dining Out NYC should permit more flexibility for sidewalk clearances while maintaining appropriate pathways for pedestrians, people with disabilities, and other sidewalk users.
5. **Improve the user-friendliness of the application process.** The online application portal should be improved with features including allowing applicants to save partially filled-out applications. To improve equity and inclusion of the program, DOT should also allow for an in-person application option, which is especially helpful for people who do not speak English as a first language.
6. **Clarify scaffolding requirements.** Because scaffolding is, by definition, a temporary structure, any café that otherwise meets pedestrian clearance requirements should not limit the footprint of sidewalk cafés.

I am eager to see the Dining Out NYC program succeed for our small businesses and residents. Outdoor dining remains an especially important program for a thriving restaurant industry, as well as for immunocompromised New Yorkers seeking safe ways to dine out. My office remains committed to partnering with all stakeholders, within the scope of our Charter authority, to ensure the efficacy and success of this program.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander", with a stylized, flowing script.

Brad Lander
New York City Comptroller