



OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

**ANTONIO REYNOSO**

Brooklyn Borough President

**Testimony on Permanent Open Restaurants Zoning Text Amendment  
and Accompanying Legislation  
New York City Council Hearing 2/8/2022**

Good morning, I'm Brooklyn Borough President Antonio Reynoso, and this is my first time before the City Council in my new role. Thank you for the opportunity to speak today on Open Restaurants. As you may be aware, this proposal is extremely important to me. Last term I was the lead sponsor of two laws to first legalize the emergency Open Restaurants program, and then to compel the City to make that program permanent.

So far, the Open Restaurants program has been a success. It been a lifeline for small restaurants that have been struggling during the two-plus years of this pandemic, it has created approximately 100,000 jobs, and it has helped New Yorkers re-imagine what our streets can be. Instead of parking spaces used for the storage of private vehicles, we've taken back some of this space for use by people. I'm very happy to be here today to comment on the next phase, and want to thank DOT for the work they have done so far.

I want to continue to be a partner in this effort to ensure that all restaurants, including immigrant-run businesses in outer-borough neighborhoods, have the opportunity to participate in this program without a major cost burden or too much red tape. I strongly support the zoning changes that will allow restaurants in a much broader geography to legally participate in this program.

That said, I have a few concerns I want to share. Of course all restaurants must comply with regulations to keep their outdoor areas safe, clean, and unobtrusive, but no restaurant should need to hire a lobbyist or an architect to accomplish this. In the emergency program, we allowed for self-certification, and I know that has been difficult to regulate. Still, I thank DOT for removing the requirement that restaurants provide engineered drawings, which can be cost-prohibitive for some businesses. I still remain concerned that the sidewalk café approval process, which could include three public hearings, can be onerous for a small business. I know it may not be possible due to provisions of the Charter, but I still want to be on record saying I'd like to see that process look more like the proposed notice-only process for roadway cafes. Additionally, I think Landmarks Commission review of sidewalk and roadway cafes is unnecessary, and has the potential to severely limit this program in parts of the city where outdoor dining is most



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popular. Landmarks regulations generally only apply to work that affects the exterior of a landmarked building. By their nature, these Open Restaurants will be temporary, removable, and won't affect the historic significance of a building or district. We don't do landmark approvals for parking – we shouldn't do it for outdoor dining. I believe that having clear and accessible design guidelines will help solve for some of the issues that these policies are meant to address.

On the temporary nature of the roadway cafes in particular, DOT has said they intend for this program to be seasonal. While I would rather see it be possible year-round, particularly if we find ourselves in the unfortunate situation of dealing with another COVID spike, I understand that the cost of maintaining (and heating) these spaces year-round can be high, and that DOT does need time to do important work such as repaving streets. I am concerned about the cost and availability of storage in the off-season, and would ask DOT to consider allowing businesses with roadway cafes to use one parking space year-round for covered and secured storage, with the understanding that materials may need to be moved temporarily for street paving or other necessary access.

Another area that is important for borough equity is the fee structure. The proposed licensing fees in the legislation seem reasonable, and DOT has said that in their rulemaking process, they intend to tie fees to square footage and geography, so a business in Bay Ridge won't pay the same price as a business on Madison Avenue. I strongly support this. I also want to make sure that enforcement mechanisms provide the opportunity to cure first, without jumping to imposing large fees. Some businesses may have to redesign their roadway cafes to comply with the new design guidelines, which may be extremely costly, and we need to be mindful of this as we shift from the temporary to the permanent program. I just want to repeat that my main goal is for this program to be accessible to all businesses in the outer boroughs.

On that note, I want to stress the importance of DOT providing proactive, targeted, multilingual educational outreach about how to participate in this program, how to comply with regulations, and how to cure any infractions received. I also would like to see one online portal, translated into multiple languages, that includes all this information.

Again I look forward to partnering with DOT on this rollout, and I thank you all for your time today.