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Budget, Education & City Services

June 2023, Budget, Education & City Services Committee



Resolution to Create Public Bathroom Access through the Open Restaurant Program

At the regularly scheduled monthly Community Board Five meeting on Thursday, June 08, 2023, the following resolution passed with a vote of 33 in favor; 0 opposed; 1 abstaining:

WHEREAS, The City of New York (NYC) is creating a permanent Open Restaurants program due to the success of the emergency Open Restaurants Program during COVID-19, which provided businesses with an opportunity to generate revenue while allowing customers and employees to practice social distancing in order to protect public health and safety; and

WHEREAS, Currently there are 13,024 open restaurants that occupy public street space (sidewalks and road beds) in NYC; and

WHEREAS, As of 2019, there were 23,650 restaurant establishments, with more than half of our restaurants are participating in this program; and

WHEREAS, There are approximately 6,300 open restaurants in Manhattan, 3,100 in Brooklyn, 2,500 in Queens, 687 in Bronx, and 190 in Staten Island; and

WHEREAS, Half of the restaurants are utilizing both the sidewalk and roadway in front of their business; and

WHEREAS, Pre-pandemic Sidewalk Café outdoor dining program, had only about 1,000 total permit holders and applications in progress when Open Restaurants started; and

WHEREAS, Outdoor dining has reached the 17 Community Districts that had none under the pre-pandemic Sidewalk Café program; and

WHEREAS, This permanent program will allow restaurants to use the public realm as a revenue source for a fee based on the median annual rent for a square foot of a ground floor commercial premise; and

WHEREAS, The range of fees is divided into four sectors; and

WHEREAS, 80% of the city is part of Sector 1, which has an annual rent of \$5/sf for roadway cafe and \$6/sf for sidewalk cafes; and

WHEREAS, Sectors 3 and 4 shall only include the area south of and including 125th Street in the borough of Manhattan with Sector 4 rates at \$25/sf for roadway cafes and to \$31/sf for sidewalk cafes; and

WHEREAS, This permanent program will restrict the use of our public realm for public bathrooms, street furniture and other competing interests; and

WHEREAS, NYC currently has approximately 1,100 public bathrooms for a city of 8.5 million people and 60 million annual tourists; and

WHEREAS, This is a ratio of 1 bathroom for every 7,700 residents; and

WHEREAS, Access to restaurant bathrooms will significantly make our public realm more accessible and usable for residents and tourists; and

WHEREAS, Retail Bathroom Programs have been successful in other cities; and

WHEREAS, The United Kingdom has the Community Toilet Scheme where retailers are paid an annual stipend from various tiers depending on the public bathroom amenities they provide to the public; and

WHEREAS, Germany has a similar program called Nette Toilette which started in 2000 and is in over 210 cities; and

WHEREAS, In both programs, the city pays retailers an average annual stipend ranging from \$700 to \$1,400 (numbers from 2016); and

WHEREAS, A window sign or sticker is placed in retail storefront to let people know their bathrooms are open to the public; and

WHEREAS, The UK has the Great British Toilet Map that indicates the retailers that have opened up their bathrooms to the public, the amenities the bathroom has and the hours of operations; and

WHEREAS, Restaurants that are using our public realm over a certain square footage may consider opening up their bathrooms to the public in recognition that they are profiting from using the public realm for additional seating; and

WHEREAS, Restaurants that are using a smaller footprint may be provided with a voluntary program where their fee would be reduced if they open up their bathrooms to the public; and

WHEREAS, Fees generated from the Open Restaurant program may pay for a stipend for restaurants not participating in the Open Restaurant Program that are willing to open up their bathrooms to the public; and

WHEREAS, This program must be carried out in consultation with the New York Chamber of Commerce and New York Hospitality Alliance; and

WHEREAS, Additional issues may require further study such as insurance or fee structures; and

RESOLVED, CB5 recommends that the Open Restaurant Program include public bathroom access in exchange for the use of our public realm; and be it further,

RESOLVED, CB5 seeks the help of Manhattan Borough President Mark Levine, our city council members Carlina Rivera (CD2), Keith Powers (CD4), and Erik Bottcher (CD3), the Department of Transportation (DOT) and the Department of Consumer and Worker Protection (DCWP) to amend Intro 0031-2022 Version B - Sidewalk Cafes and Roadway Cafes to include access to public bathrooms so that our public realm can be more equitable, clean, functional and attractive.



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