



To Council Member Erik Bottcher

DSNY is proposing to amend its rules to mandate “ all food-related businesses must set out any putrescible solid waste, including refuse and organic waste, at the curb for private carter collection in rigid receptacles with tight-fitting lids. The proposed rule would not apply to recyclable materials other than organic waste.”

DSNY will hold a public hearing on the proposed rule. The public hearing will take place via Webex at 10:00AM on June 22, 2023,

While we applaud this proposal, we strongly object to the proposed rules for storage of the containers: "If other storage areas on the premises are not available, receptacles may be stored in the area within 3 feet of the building line on the sidewalk, provided that such receptacles are maintained in an orderly manner and do not impede or obstruct pedestrian flow on the sidewalk.”

Such a change is not warranted ; It would bring a serious degradation of the pedestrian space and quality of life for millions of commuters, tourists and pedestrians in general It is also a taking of public space by private operators without compensation.

To illustrate the unintended consequences of this proposal, during peak commute hours there will be a number of residential full trash containers at the curb and simultaneously empty containers along the buildings. This will take away a minimum of 6 ft of sidewalk. On 9th Avenue where food establishments occupy 90% of ground floors in narrow residential buildings, this situation will occur every 25 ft. and continue from 6 pm to midnight/ 2 am when most of the businesses close.

1. This change is unnecessary: The change from bags to containers will not take more space inside a restaurant since the health department already requires that trash be kept in sealed containers when inside. (NYC rules section 14-1-150) and that (d) A sufficient number of containers are to be provided to hold all the garbage and refuse that accumulates between periods of pickup and removal.
2. The proposal is potentially unsafe: In a recent pilot, DSNY insisted that all containers be locked to address the risks that such receptacles left unlocked for 24 hours could be a magnet for explosive devices, or invite scavengers to search them and spread trash on the sidewalk .
3. This proposal would be in conflict with the NYC Administrative Code 16-118 which stipulates that “ Every owner, lessee, tenant, occupant or person in charge of any building or premises shall keep and cause to be kept the sidewalk, flagging and curbstone abutting said building or premises free from obstruction and nuisances of every kind,” . We wish the Code was strictly enforced, but it should not be further undermined.



4. This proposal skirts the current approval process administered by DOT for use of the public space: such furniture should be subject to DOT 's Revocable consents for any bulky object that is permanently on the sidewalk as these containers would be. This process ensures that the pedestrian space is respected and that the private party compensate the City for the use of the public space. DOT should enforce such the approval and misuse of such furniture
  
5. This proposal presents many practical challenges that have not been addressed:
  - a. Will there be a container size specified? Many carter companies use large containers that will encroach well beyond 3 ft on the sidewalk.
  - b. Where will the containers be stored if there is already a sidewalk cafe using the full width of the facade ?
  - c. How will the city prevent restaurants from storing their food trash in the sidewalk's containers throughout the day which could generate bad odors for passers-by and attract scavengers?
  - d. How will the city prevent sandwich boards to be illegally placed in front or the containers ? (today, DSNY rarely enforces the constant and numerous sandwich boards encroachments
  - e. How will the city ensure that 8ft (or more based on the DOT pedestrian mobility plan) of walkable space is maintained on the sidewalks based on combination of residential trash, recycling , and commercial trash and other obstructions?
  - f. Which department will enforce the compliance with pedestrian path? DOT or DSNY? What would be the fines for encroaching on the pedestrian path?

We urge you to remove this language from the rules and enforce the storage of garbage containers inside the businesses until the time of pick up or explicitly allow them to store the containers in the parking lane

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