

New York City Department of Sanitation
Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? DSNY is proposing to amend its rules relating to the use of certain receptacles for food-related businesses.

When and where is the hearing? 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, using the following link:

<https://departmentofsanitationnewyork.my.webex.com/departmentsanitationnewyork.my/j.php?MTID=m54c90d225213e9162ee7f12f586c1070>

Meeting number: 2633 454 3939

Password: 3qYT9aneEJ7 (37989263 from phones and video systems)

Join by video system

Dial 26334543939@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-408-418-9388 United States Toll

Access code: 263 345 43939

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DSNY through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dsny.nyc.gov.
- **Mail.** You can mail written comments to DSNY, 125 Worth Street, Room 710, New York, NY 10013.
- **Fax.** You can fax written comments to DSNY at 212-788-3876.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing miguori@dsny.nyc.gov by 5:00PM on June 21, 2023. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign-up in advance. You can speak for up to three minutes.

Is there a deadline to submit comments? The deadline for submitting written comments shall be June 22, 2023.

What if I need assistance to participate in the hearing? You must tell the Bureau of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us or by email to eluna@dsny.nyc.gov or by telephone at 646-885-4996. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by June 15, 2023.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at 125 Worth Street, Room 710, New York, NY 10013 and on DSNY's website.

What authorizes DSNY to make this rule? Sections 753 and 1043(a) of the New York City Charter and section 16-120 of the New York City Administrative Code Section authorize DSNY to make this proposed rule. This proposed rule was not included in DSNY's regulatory agenda for this Fiscal Year because it was not contemplated when DSNY published the agenda.

Where can I find the DSNY's rules? DSNY's rules are in Title 16 of the Rules of the City of New York.

What laws govern the rulemaking process? DSNY must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose

DSNY rules currently allow for all commercial establishments to set out their waste and recyclable materials within one hour of closing, provided that the scheduled collection occurs before the establishment next reopens for business and only if such materials are placed out for collection in receptacles with tight-fitting lids. Those establishments that place materials out for collection in bags, regardless of the time they close, may place such materials at the curb no earlier than 8:00 p.m.

Under this proposed rule, 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. The proposed rule would also not apply to food-related businesses that receive off-street collection, including collection that takes place in a loading dock.

Additionally, the rule sets forth maintenance and storage requirements for such receptacles.

These changes are a part of the City's commitment to cleaning up New York City streets and reducing food sources for rats. Food-related businesses are large generators of putrescible waste, including organics, and bags of waste set out for collection on the curb, even when in compliance with existing waste setout requirements, attract rats and vermin. Requiring these businesses that produce a disproportionate amount of food waste to place their putrescible

waste in sealed containers will meaningfully limit potential food sources for vermin. DSNY is working closely with the Department of Health and Mental Hygiene to ensure that these changes reflect a shared goal of health and safety for restaurants.

These changes align with other City initiatives to increase the use of containers for waste storage and collection, creating cleaner, more livable, and more vibrant streets and neighborhoods across New York City.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (b) of section 1-02.1 of Title 16 of the rules of the city of New York is amended to read as follows:

(b) A commercial establishment that receives collection from a private carter shall place receptacles or bags containing solid waste or recyclables out at the curb for private carter collection as follows:

1. Except as provided in paragraph (2) of this subdivision, and in accordance with section 1-02.4 of this chapter, materials must be placed out at the curb no earlier than 8:00 p.m. prior to scheduled collection provided that such collection takes place later that same day or on the day immediately following;

2. Except as required in section 1-02.4 of this chapter, [M]materials placed out for collection in receptacles with a tight-fitting lid, and designated recyclable paper that is tied and bundled securely without a container, may be placed out for collection at the curb no earlier than one hour before closing, provided that the scheduled collection occurs before the establishment next reopens for business;

3. Any receptacle placed out for collection must be removed from the curb no later than the time the commercial establishment next reopens for business; and

4.. The requirements of this subdivision do not apply to commercial establishments that receive off-street collection, including collection from inside a loading dock.

§2. Section 1-02.1 of Title 16 of the rules of the city of New York is amended by adding a new subdivision (d) to read as follows:

(d) Any receptacles used for the set out of waste pursuant to subdivision (a) or (b) of this section must be kept clean and in good repair. 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.

§3. Chapter 1 of Title 16 of the rules of the city of New York is amended by adding a new Section 1-02.4, to read as follows:

§ 1-02.4 Receptacles Required for Food-Related Businesses

(a) The terms “catering establishment,” “food manufacturer,” “food preparation establishment,” “food service establishment,” “food wholesaler,” and “retail food store” have the same meanings as in section 16-306.1 of the Administrative Code.

(b) Catering establishments, food manufacturers, food preparation establishments, food service establishments, food wholesalers, and retail food stores 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, in accordance with 16 RCNY § 1-02.1(b).

(c) The requirements of this section do not apply to recyclable materials other than organic waste.

(d) The requirements of this section do not apply to commercial establishments that receive off-street collection, including collection from inside a loading dock.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Use of Certain Receptacles by Food Related Businesses

REFERENCE NUMBER: DSNY-32

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the violations pose significant risks to public health and quality of life.

/s/ Francisco X. Navarro
Mayor's Office of Operations

May 1, 2023
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Use of Certain Receptacles by Food Related Businesses

REFERENCE NUMBER: 2023 RG 025

RULEMAKING AGENCY: New York City Department of Sanitation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: May 1, 2023