

New York City Department of Consumer and Worker Protection

Notice of Adoption

Notice of Adoption to add a new penalty schedule to implement Local Law 64 of 2021, which creates restrictions on single-use plastic beverage straws, beverage stirrers, and beverage splash sticks (collectively, “single-use beverage plastics”)

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of Consumer and Worker Protection by Sections 1043 and 2203(f) of the New York City Charter and Local Law 64 of 2021, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department adds Section 6-74 to Chapter 6 of Title 6 of the Rules of the City of New York.

This rule was proposed and published on September 13, 2021. A public hearing was held on October 13, 2021.

Statement of Basis and Purpose of Rule

The Department of Consumer and Worker Protection (“DCWP” or “Department”) is adding a new penalty schedule to implement Local Law 64 of 2021, which creates restrictions on single-use plastic beverage straws, beverage stirrers, and beverage splash sticks (collectively, “single-use beverage plastics”).

Local Law 64 restricts food service establishments – such as restaurants, cafes, delis, bars, grocery stores and food trucks – from providing single-use plastic straws, stirrers and splash sticks to customers. Food service establishments are prohibited from providing single-use plastic stirrers and splash sticks. Food service establishments are prohibited from providing non-compostable, single-use plastic straws (“plastic straws”) except upon request by a customer.

For customers who request a plastic straw, food service establishments must provide one free of charge, without inquiring about the reason for the request. Food service establishments must stock plastic straws to fulfill customer requests and must post signs advertising the straws’ availability at self-serve stations. Compostable plastic straws may be provided upon request only for use on-premises, but only if the food service establishment properly separates and disposes of those straws through a commercial composting provider or via another method specified in Administrative Code Section 16-306.1(c)(1).

Food service establishments that violate provisions of Local Law 64 are liable for civil penalties from \$100 to \$400 per violation.

To implement Local Law 64, DCWP is adding a new penalty schedule of single-use beverage plastics violations.

New material is underlined.

[Deleted material is in brackets.]

“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.

Rule Amendment

Section 1. A new Section 6-74 is added to Subchapter B of Chapter 6 of Title 6 of the Rules of the City of New York to read as follows:

§ 6-74 Single-Use Beverage Plastics Penalty Schedule

All citations are to Title 16 of the Administrative Code of the City of New York.

Unless otherwise specified, the penalties set forth for each section of law or rule shall also apply to all subdivisions, paragraphs, subparagraphs, clauses, items, or any other provision contained therein. Each subdivision, paragraph, subparagraph, clause, item, or other provision charged in the Notice of Violation shall constitute a separate violation of the law or rule.

Unless otherwise specified by law, a second or third or subsequent violation means a violation by the same respondent, whether by admitting to the violation, being found in violation in a decision, or entering into a settlement agreement for violating the same provision of law or rule, on a different day within twelve months of the prior violation(s).

<u>Citation</u>	<u>Violation Description</u>	<u>First Violation</u>	<u>First Default</u>	<u>Second Violation</u>	<u>Second Default</u>	<u>Third and Subsequent Violation</u>	<u>Third and Subsequent Default</u>
Admin. Code § 16-401(b)	Providing single-use plastic stirrers or single-use plastic splash sticks	\$100	\$100	\$200	\$200	\$400	\$400
Admin. Code § 16-401(c)(1)	Providing single-use, non-compostable plastic straws to customers without customer request (including providing such straws at a self-serve station)	\$100	\$100	\$200	\$200	\$400	\$400
Admin. Code § 16-401(c)(2)	Failure to maintain a sufficient supply of single-use, non-compostable plastic straws.	\$100	\$100	\$200	\$200	\$400	\$400
Admin. Code § 16-401(c)(2)	Failure to provide a single-use, non-compostable plastic straw upon request	\$100	\$100	\$200	\$200	\$400	\$400
Admin. Code § 16-401(c)(2)	Charging a customer for a single-use, non-compostable plastic straw that the customer has requested or inquiring as to the reason a customer has requested such plastic straw	\$100	\$100	\$200	\$200	\$400	\$400
Admin. Code § 16-401(c)(3)	Failure to display required signage about plastic straw availability	\$100	\$100	\$200	\$200	\$400	\$400
Admin. Code § 16-401(d)	Providing compostable plastic straws to be used outside of the food establishment's premises; failure to appropriately dispose of compostable plastic straws; failure to maintain required bins for disposal of compostable plastic straws	\$100	\$100	\$200	\$200	\$400	\$400



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Hon. Peter A. Hatch
Commissioner of Consumer and Worker Protection

Re: Implementation of Limitations on Single-Use Beverage Plastics

No. 2021 RG 067

Dear Commissioner Hatch:

Pursuant to New York City Charter § 1043 subd. c, the above-referenced rule has been reviewed and determined to be within the authority delegated by law to your agency.

Sincerely,

/s/ Steven L. Goulden

STEVEN GOULDEN
Senior Counsel
Division of Legal Counsel

cc: Andrew Schwenk (DCWP)