

June 22, 2023

## **Comments of the NYC Hospitality Alliance on the Department of Sanitation's proposal to amend its rules relating to the use of certain receptacles for food-related businesses**

The NYC Hospitality Alliance ("The Alliance") is a not-for-profit organization representing restaurants, bars, and nightclubs throughout the five boroughs that would be affected by the NYC Department of Sanitation's ("DSNY") proposed rule, which if adopted will require all food-related businesses to set out their waste at the curb in rigid receptacles with tight-fitting lids for commercial carter pick up.

The Alliance is a supporter of containerizing trash, and we urge food businesses to do so whenever practicable, but we strongly oppose DSNY's proposal to mandate that all food businesses do so because it is impractical or impossible for many businesses under this proposal. We conducted a survey, and a sample of nearly 400 hundred restaurants and bars replied that they'd be unable or have significant challenges complying with this proposed mandate due to lack of indoor and outdoor space, and other logistical challenges.

While some food businesses already containerize their waste, or would do so if encouraged or required, a segment of the industry has shared these valid concerns with us about their limitations, and in many cases inability to comply with this proposed sweeping mandate:

### **Storing Trash Containers Indoors:**

Many food businesses do not have adequate indoor space to fit a bunch of large rigid garbage containers inside their small businesses, and/or carrying them through sidewalk cellar doors poses additional physical challenges to workers.

In restaurants with limited indoor space, storing large rigid dirty garbage containers inside near food preparation areas and customer seating areas is unappealing, creates nuisances, sanitary issues, and likely increases the chance of pest and vermin issues that may result in Department of Health Violations.

### **Storing Trash Containers Outdoors for Restaurants that Cannot do so Indoors:**

Many food businesses have narrow storefronts. This mandate would force them to store a bunch of garbage containers right in front of their business blocking their windows and obstructing their storefronts.

Neighboring businesses and residential buildings will undoubtedly complain when food businesses permanently store a bunch of large rigid and smelly garbage containers right next to their entrances, as will community boards and local groups that may not want thousands of garbage cans permanently stationed in front of buildings, especially when there are multiple containers that get knocked over, strewn about at night, etc.

The City of New York is also enacting an historic outdoor dining program and if a restaurant must store their large garbage containers on the public sidewalk directly contiguous to their storefront, the space designed to be utilized as a sidewalk cafe, it will limit their ability to have a sidewalk café and place this historic program the mayor wants to make permanent in jeopardy.

## **Violations and Miscellaneous Concerns**

Mayor Adams' Administration and the City Council have focused on education and compliance first and levying fines against small businesses as a last resort, which they do in part by incorporating warnings and cure periods for first time violations into existing and new laws and rules. Yet, this is another recent example of DSNY's failure to follow by publishing a rule that doesn't allow for warnings and/or cure periods. We find this to sharply contrast with the stated regulatory culture of Mayor Adams' Administration seeks to achieve.

Businesses that currently use garbage containers reported pedestrians opening them and leaving their own trash and recyclables in the containers resulting in fines from DSNY for not separating materials properly, so how will the agency mitigate against these unfair violations and fines to businesses?

These large garbage containers will need to be regularly cleaned to avoid health and rodent problems. Thousands of small restaurants do not have the facilities to accomplish that indoors so, our city's sidewalks will be turned into washing areas for these garbage containers resulting in dirty water runoff that result in more complaints.

The NYC Hospitality Alliance recognizes the myriad of problems with our city's current garbage collection system and supports an overhaul, but it must be achievable and doesn't create other undesirable outcomes such as replacing garbage bags placed on the curb line after 8pm for a few hours, for thousands of garbage containers permanently stationed in front of businesses across the city 24/7, which similarly seems unwieldy and unsightly. We understand that our private commercial carting system complicates trash containerization because even under the to be implemented Zone Carting system multiple carters will service an area and this poses challenges for communal containers, which the city seeks to implement for residential garbage. But even there, the city is implementing a pilot program for themselves for residential collection before mandating it citywide, but the city seeks to immediately impose this mandate on businesses without a pilot program, whose trash they aren't responsible for collecting.

We urge DSNY to slow down this process and work with the restaurant industry to get more businesses to containerize their garbage and seek solutions to the challenges we've listed. For example, this proposal doesn't even allow for a restaurant to petition the city to allow them to store the garbage containers on the curb line, parking space, or elsewhere on the block, get a waiver, or explore other options like using rodent repellent garbage bags. Furthermore, with the major transition to the Zone Carting system underway, further exploration about how containerization could work better under that scheme should be discussed. We were appointed to the Zone Waste Advisory Board and urge the city to reconvene affected stakeholders from that Board to explore possibilities and opportunities.

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We strongly oppose this proposed rule as drafted, remain committed to working collaboratively with Mayor Adams' Administration, DSNY, and stakeholders to find better solutions, and we thank you for your consideration of our comments.

If you have questions, please contact our executive director Andrew Rigie at [arigie@thenycalliance.org](mailto:arigie@thenycalliance.org)

Respectfully submitted,

NYC Hospitality Alliance