

New York City Department of Sanitation

Notice of Adoption of Final Rule Relating to Use of Certain Receptacles by Food-Related Businesses

NOTICE IS HEREBY GIVEN in accordance with the requirements of Sections 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 and 1043(a) of the New York City Charter and section 16-120 of the New York City Administrative Code, that DSNY adopts the following rule relating to the use of certain receptacles by food-related businesses. DSNY published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on May 18, 2023. On June 22, 2023, DSNY held a public hearing on the proposed rule.

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 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 rule would not apply to recyclable materials other than organic waste. The 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.

Based on comments received, DSNY added language that would allow for the suspension of such container and set-out requirements in the event of a Mayoral declaration of a health or solid waste emergency. The rule would also allow for the suspension of such container and set-out requirements by the Commissioner if there is a determination that weather conditions are not conducive to the use of receptacles, or if the use of such receptacles would constitute a public nuisance.

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.

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 new subdivision (d) and (e) 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.

(e) Suspension of container requirements:

1. The requirements to set waste out in containers in this section and 1-02.4 of this Chapter may be suspended if:

a. the Mayor declares a health or solid waste emergency; or

b. the Commissioner determines that weather conditions are not conducive to the use of receptacles; or

c. the Commissioner determines that the use of such receptacles would constitute a public nuisance.

2. In the case container requirements are suspended pursuant to paragraph 1 of this subdivision, materials may be placed out for collection as follows:

a. Occupants of residential buildings, public buildings, and special use buildings, except commercial occupants of residential buildings where Department collection service is not otherwise authorized by 16 RCNY § 1-03, shall place their receptacles or bags containing solid waste or recyclables out at the curb for collection no earlier than 6:00 p.m. on the day before scheduled collection and no later than 12:00 am on the scheduled collection day.

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 shall place receptacles or bags containing solid waste or recyclables out at the curb for private carter collection no earlier than either 8:00 p.m. or one hour before closing, whichever is earlier.

§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), (d), and (e).

(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.

(e) Notwithstanding the requirements of this section, commercial establishments must comply with all laws, rules and regulations, including, but not limited to, the rules and regulations of the Department of Health and Mental Hygiene with respect to the management of waste.