

New York City Department of Consumer and Worker Protection

Notice of Adoption

Notice of Adoption to amend rules to include violations of Local Law 17 of 2023, which places restrictions on providing eating utensils, condiment packets, napkins, and extra eating containers to take-out customers, and of Local Law 39 of 2023, which creates requirements for the sale, lease, and rental of powered bicycles, powered mobility devices, and storage batteries for such devices.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer and Worker Protection by Sections 1043, and 2203(f) of the New York City Charter, Section 20-104(b) of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department amends Title 6 of the Rules of the City of New York.

This rule was proposed and published on June 20, 2023. A public hearing was held on July 20, 2023, and five comments were received.

Statement of Basis and Purpose

The Department of Consumer and Worker Protection (“DCWP” or “Department”) amends section 6-74 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York to include penalty amounts for violations of Local Law 17 of 2023, set forth in Section 16-402 of the Administrative Code of the City of New York, which places restrictions on providing eating utensils, condiment packets, napkins, and extra eating containers to take-out customers. Food service establishments, third-party food delivery services, and third-party courier services that violate provisions of Local Law 17 will be given warnings and provided information about the law until July 1, 2024, at which point they will be liable for civil penalties from \$50 to \$250 per violation. These penalties are intended to decrease the amount of plastic waste generated by food service establishments while allowing customers to ask for, instead of automatically receiving, plastic utensils if they desire to use them.

DCWP also adds a new penalty schedule to implement Local Law 39 of 2023, set forth in Sections 20-609 and 20-610 of the Administrative Code of the City of New York, which creates requirement related to the sale, lease, and rental of powered bicycles, powered mobility devices, and storage batteries for such devices. Those who violate the provisions of Local Law 39 are liable for civil penalties from \$0 (for a first violation) to \$1000 per violation. These penalties are intended to ensure that powered bicycles, powered mobility devices, and storage batteries, which include e-bikes, e-scooters, hoverboards, e-skateboards and e-uniwheels, are safe for public use.

Sections 1043, 2203(f) and 2203(h)(1) of the New York City Charter, Local Law 17 of 2023 and Local Law 39 of 2023 authorize the Department of Consumer and Worker Protection to issue these rules.

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 Amendments

Section 1. Section 6-74 of subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 6-74 Single-Use [Beverage Plastics] Items 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
Admin. Code § 16-402(b)	Providing eating utensils, condiment packets, napkins, or extra eating containers without customer request	\$50	\$50	\$150	\$150	\$250	\$250
Admin. Code § 16-402(c)(1)	Failure to prominently and conspicuously provide customers with the option to request eating utensils, condiment packets, napkins, or extra eating containers	\$50	\$50	\$150	\$150	\$250	\$250
Admin. Code § 16-402(c)(1)	Default option not set to no eating utensils, condiment packets, napkins, or extra eating containers	\$50	\$50	\$150	\$150	\$250	\$250
Admin. Code § 16-402(c)(2)	Providing eating utensils, condiment packets, napkins, or extra eating containers without customer request	\$50	\$50	\$150	\$150	\$250	\$250

Section 2 Subchapter B of chapter 6 of title 6 of the Rules of the City of New York is amended by adding a new section 6-86, to read as follows:

§ 6-86 Powered Mobility Devices Penalty Schedule

All citations are to Title 20 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 two years of the prior violation(s).

Each failure to comply with respect to any one stock keeping unit gives rise to a separate violation of subdivision a, b, or c of § 20-610 of the Administrative Code.

<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 Violation</u>	<u>Third Default</u>	<u>Fourth and Subsequent Violation</u>	<u>Fourth and Subsequent Default</u>
Admin. Code § 20-610(a)	Distributing, selling, leasing, renting, or offering for sale, lease, or rent a non-compliant powered bicycle	\$0	\$0	\$750	\$1,000	\$900	\$1,000	\$1,000	\$1,000
Admin. Code § 20-610(b)	Distributing, selling, leasing, renting, or offering for sale, lease, or rent a non-compliant powered mobility device	\$0	\$0	\$750	\$1,000	\$900	\$1,000	\$1,000	\$1,000
Admin. Code § 20-610(c)	Distributing, selling, leasing, renting, or offering for sale, lease, or rent a non-compliant storage battery	\$0	\$0	\$750	\$1,000	\$900	\$1,000	\$1,000	\$1,000