1	x
2	REMOTE PUBLIC HEARING
3	DSNY PROPOSED RULE RELATING TO THE USE OF CERTAIN
4	RECEPTACLES FOR FOOD-RELATED BUSINESSES IS PROPOSED
5	RULE RELATING TO THE USE OF CERTAIN RECEPTACLES FOR
6	FOOD-RELATED BUSINESSES
7	x
8	Held Remotely Webex Video Conference
10	DATE: June 22, 2023 TIME: 10:01 a.m.
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12	
13	REMOTE PUBLIC HEARING in the
14	above-referenced matter, held via videoconference at
15	the above time, before Sabrina Brown Stewart, a
16	Notary Public of the State of New York.
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1	APPEARANCES:
2	Madelynn LIGUORI - Senior Counsel in the Bureau of Legal Affairs, DSNY
3	Legal Allairs, DSN1
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7	SPEAKERS:
8	ANDREW RIGIE - Executive Director, NYC Hospitality Alliance
9	CHRISTINE BERTHET - CHEKPEDS
11	EDDIE MARK - Brooklyn CB13
12	THOMAS TOSCANO - Mr. T Carting Corp.
13	SEBASTIAN HALLUM CLARKE - New York Resident
14	DIEGO BARBERENA - WasteTech Solutions, LLC.
15	JACKSON CHABOT - Director of Advocacy and Organizing, Open Plans
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MS. LIGUORI: Good morning and welcome.

My name is Madelynn Liguori. I am Senior

Counsel in the Bureau of Legal Affairs for

the Department of Sanitation. Thank you for

attending this public hearing this morning.

DSNY is conducting this remote hearing in accordance with the requirements of the City Administrative Procedure Act. The purpose of this hearing is to receive comments from the public on DSNY's proposed rule relating to the use of certain receptacles by food-related businesses.

This rule was published by DSNY in the City Record on May 18, 2023, with a scheduled hearing date of today, June 22, 2023.

Additionally, DSNY e-mailed copies of the rule to all New York City local elected officials, the City's fifty-nine community boards, media and interested parties, and published the proposed rule on its website.

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

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

A court reporter is present today and will record the hearing. You may present an oral statement or submit written comments concerning the proposed rule. We have been accepting written comments on the proposed

rule since it was published. Today is the deadline for submission of written comments. Such comments may be emailed directly to nycrules@dsny.nyc.gov by 5 p.m. today.

DSNY will make available a copy of all written comments received through today, together with the hearing transcript, for viewing on its website within the next few weeks. DSNY will carefully consider all the comments it receives today at the hearing and all written comments it receives.

I will begin calling those of you who wish to speak this morning in the order in which you have signed up to testify. While the notice requested that persons wishing to testify sign up in advance of this hearing, anyone wishing to testify at this time may do so by indicating in the chat area that you wish to testify by indicating your name and affiliation, if any. When you speak, please state your name and affiliation, and speak slowly and clearly, so that the court reporter can understand and accurately record your statement. We also ask that you limit your statements to five minutes. Thank you.

1	I will begin by calling the first
2	person that has signed up to testify.
3	Paul Denamiel or someone from Le Rivage
4	Restaurant; is anyone here, Paul or anyone
5	from Le Rivage Restaurant?
6	(No response).
7	MS. LIGUORI: Okay. We will skip and
8	go to the next person.
9	Christine Berthet. Is Christine here,
10	Christine Berthet?
11	(No response).
12	MS. LIGUORI: All right. Andrew Rigie
13	from the New York City Hospitality Alliance.
14	I believe I did see him. Here we go.
15	MR. RIGIE: Hello, how are you?
16	My name is Andrew can you hear me?
17	MS. LIGUORI: Yes, you are good.
18	MR. RIGIE: Perfect.
19	My name is Andrew Rigie. I am the
20	executive director of the New York City
21	Hospitality Alliance. We represent
22	restaurants, bars, and nightclubs across the
23	five boroughs. And, you know, we have been
24	big supporters of containerization of trash
25	and really encourages many of our members to

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containerize their trash whenever feasible.

But as we've said, this proposal, this widespread city-wide mandate is hugely problematic, impractical and probably impossible for a lot of restaurants. We did a quick survey and got feedback from nearly 400 restaurants, that said they just can't practically comply with what's being proposed as is, or it would present some significant challenges.

The reality is, we have many small restaurants that just do not have the space to fit large, rigid, dirty, smelly trash containers inside their restaurants. And if they do put them in there, it's going to create issues with the Health Department, no doubt, and you're going to have big, dirty trash containers next to food preparation areas, next to customers sitting down, and that is obviously a big problem and concern.

The alternative would be to place the containers outside. One, I think this puts in jeopardy sidewalk cafes for many small restaurants in particular, that are hoping to have a sidewalk cafe under the City's

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upcoming Permanent Outdoor Dining Program.

And it also creates a whole other issue because you will have containers, large containers, permanently screwed across the sidewalks across the City, and they get knocked over. They're ugly. We get it.

It's not ideal to have trash after 8 p.m. in bags on the curbside, but they at least do get picked up, versus having probably thousands of large, rigid containers on sidewalks.

The businesses nextdoor won't like it.

The residents nextdoor won't like it. People walk by, throw their trash in it.

Inevitably, the Department of Sanitation is going to, you know, issue a violation to a restaurant for having recyclable material in there. And the other issues is, many businesses have very narrow storefront, so there's just not a way for them to keep these containers right in front of their storefront without blocking the entry, without looking ugly.

And if there's not an alternative place to place them, what do they do if they can't

keep them inside and they don't really have the space outside? This proposal presents no other options for them.

You know, we've been involved with the Zone Waste Carting Committee for years, going back and forth having all of these meetings. And with the City about to implement that, we should really be looking at how we could do this in a more organized way. I understand even with multiple carters servicing a specific district, we need to talk about communal containers, perhaps that could be placed in the curbside or in a parking or a no-standing area, where they can be placed up. But just adding thousands of garbage containers all over is going to create a lot of problems.

It's unappealing. It creates nuisances. And like I said, it's just not practical for a lot of businesses. Even if they can fit them down the cellar door, then trying to bring these large containers up, poses challenges for workers, and the list goes on and on.

And we can pre -- we will, I should

say, submit our written comments, but we want to work with the City on doing this and doing it properly. Even the City, itself, for residential collection, you're doing a pilot program, because you understand retrofitting trucks and figuring out what works and doesn't work.

So, while you're giving yourself a pilot program in one area to figure out how it works for residential containerization, you're just mandating all these small independent businesses to do it with what we believe is a proposal that's not thought out. You can't opt to place your containers somewhere else on the street if you don't have space indoor or right in front of your business.

And also, this just seems to kind of blow in the face of what the Adams

Administration is talking about, working with small businesses, focusing on education and compliance first. This is a second proposal out of Department of Sanitation, that does not include a warning or cure period for first-time violations. It's, again, the

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opposite of what the Adams Administration is saying, working with businesses, no warning, no cure period. Why?

I understand even with the last proposal on the set-out times, you didn't have a warning or a cure period, and you didn't even have a, you know, 30-day/60-day notice to businesses before you start issuing fines, until there was a lot of outcry about that, and then you finally allowed, I think, a 30 or 60-day time frame in which, you know, violations would not be issued at the implementation of the rule. Why is that not in the proposal?

Anyways, we really do want to work with the Department of Sanitation on this, but just this widespread mandate, hugely problematic, not feasible, and impractical, if not impossible for some places. And while I get you're trying to achieve one goal of cleaning up the streets, reducing vermin, this just creates a whole other list of issues that we'll end up having to deal with.

So, maybe convene the Zone Waste
Collection Committee, different stakeholders

to the table. We want to work constructively
on the proposal, but as is, this is not it.
it needs a lot more work and a lot more
thought. Let's not rush into this. And I'll
leave it at that.
Thank you very much.
MS. LIGUORI: Thank you very much.
The next person we have to testify is
the National Supermarket Association.
Is anyone here from the National
Supermarket Association?
(No response).
MS. LIGUORI: Okay. Next is the New
York State Latino Restaurant Bar and Lounge
7
Association.
(No response).
(No response).
(No response).  MS. LIGUORI: The next one that is
(No response).  MS. LIGUORI: The next one that is signed up is Eddie Mark from Brooklyn
(No response).  MS. LIGUORI: The next one that is signed up is Eddie Mark from Brooklyn  Community Board 13.
(No response).  MS. LIGUORI: The next one that is signed up is Eddie Mark from Brooklyn  Community Board 13.  MR. MARK: Hi, I'm here.
(No response).  MS. LIGUORI: The next one that is signed up is Eddie Mark from Brooklyn  Community Board 13.  MR. MARK: Hi, I'm here.  MS. LIGUORI: Great, Eddie. Thank you.
(No response).  MS. LIGUORI: The next one that is signed up is Eddie Mark from Brooklyn  Community Board 13.  MR. MARK: Hi, I'm here.  MS. LIGUORI: Great, Eddie. Thank you.  MR. MARK: I'm going to read a

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DSNY proposal to amend its ruling related to the use of certain receptacles for food-related businesses.

The Department of Sanitation's proposed new commercial garbage collection laws will create a hardship for small business owners. The Brooklyn Community Board supports the small business and does not want to see them burdened with additional expenses. According to the data collected, the cost of a new collection protocol will be about 20 to 30 percent greater than current cost, creating a major burden for businesses that are already struggling.

The Brooklyn Community Board 13 has many issues with the new commercial collection laws, including when receptacles are left on the street overnight, they may be stolen or blown into the street, causing accidents and/or creating a danger to pedestrian and vehicular traffic.

We are concerned about unsanitary conditions, which will greatly affect the quality of life. Most businesses do not have a place to store these receptacles, and they

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will be stored outside the business where they will obstruct the sidewalk that are already congested with dining sheds, bike racks, pedestrians, people who use walkers, wheelchairs, et cetera.

These businesses cannot extend their selling areas more than three feet from the building line, because people with disability will be unable to traverse the sidewalk.

Some businesses are very dependent on these outdoor displays and will have to choose between their display and having a place for their trash containers.

After garbage pickup, the dirty receptacles will remain on the street overnight until the stores open in the morning. This will attract rodents and other vermin. If the business have no place to store the receptacles inside, there will be no place to wash the receptacles, except outside of their businesses. Trash, cleaning solution, and crease will wash into the storm drains. Storm drains will become blocked, flooding the street when it rains and more trash with cleaning solvents, et cetera, will

1	enter into the waterways when it rains.
2	Existing rules and regulations are not
3	incurred. Enforcement by DSNY must be
4	constant. With all due respect to DSNY,
5	Community Board 13 is requesting that this
6	proposal not move forward because of the
7	above issues and unanswered questions.
8	Signed by our Chair, Lucy Mujica Diaz,
9	and Eddie Mark, District Manager. We also
10	will be submitting this in our comments to
11	DSNY.
12	Thank you.
13	MS. LIGUORI: Thank you very much.
14	The next person we have signed up, and
15	we're actually going to circle back, is
16	Christine Berthet.
17	MS. BERTHET: Can you hear me?
18	MS. LIGUORI: Yes.
19	MS. BERTHET: Apologies. I couldn't
20	connect earlier.
21	I am representing CHEKPEDS, an
22	organization that caters to pedestrian safety
23	in the City, and wanted to give this
24	testimony.
25	DSNY, we generally like the proposal of

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DSNY, so that it would make less garbage on the sidewalk. But we really are very, very concerned about the statement that if other storage areas on the premises are not available, the receptacle may be stored for 24 hours a day within three feet of the building line.

We think such a change is not warranted and it would bring a serious degradation to the pedestrian space and quality of life.

The unintended consequences are many. For example, during peek commuter hours, there will be a number of residential food trash containers at the curb, and simultaneously, empty containers along the business. This will take away a minimum of six feet of sidewalk.

And on 9th Avenue, where food establishment occupy 90 percent of ground floors, the situation will occur every 25 feet and continue from 6 p.m. to midnight when most of the businesses close. So, we think the change is not necessary, this sentence is not necessary. To change from bags to containers will not take care of more

space inside the restaurant.

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The Health Department already has a rule, which says that the trash must be kept in sealed containers when inside, and sufficient number of containers are to be provided to hold all the garbage and refuse accumulated inside. The proposal is potentially unsafe.

We did a recent pilot with DSNY, and DSNY insisted that all the containers be locked to address, amongst others, the risk that such receptacle left unlocked for 24 hours could be the magnet for explosive device, or invite scavengers to search them and spread trash on the sidewalk.

The proposal would be in conflict with the Administrative Code, which stipulate that every owner lessee must keep the premises, the sidewalk, free from obstruction. And we wish, by the way, that this code was enforced. And the proposal skirts the current approval process administered by DOT for public space, which such furniture should be subject to a consent decree and requires that there is a minimum eight feet of space

1 on the sidewalk. So, it would be better if 2 there was such a process. I have further questions about this 3 4 proposal: Will there be a container size 5 specified? Many carting companies use large containers that will encroach much more than 6 three feet on the sidewalk. 7 Where will the containers be stored if 8 9 there is already a sidewalk cafe in the 10 front? 11 How will the City prevent restaurants 12 from storing their food trash in sidewalk 13 containers throughout the day? 14 How will the City prevent sandwich 15 boards to be legally placed in front of the containers? 16 17 How will the City ensure that 8-foot or 18 more of walkable space is maintained? 19 And which department will enforce the 20 compliance when pedestrian pass, DOT or DSNY? 21 And what would be the fines for encroaching 2.2 on the path? 23 So, we urge you to remove this language from the rules and enforce the current 24 25 storage of garbage container inside the

businesses.

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Thank you so much.

MS. LIGUORI: Thank you very much.

The next person that's signed up to testify is Thomas Toscano.

MR. TOSCANO: Good morning, everyone.

My name is a Thomas Toscano, and I'm the president of Mr. T Carting Corp. We understand the City's goals in containerizing food waste, and we support the goals fully. We mostly support the methods the City is employing.

In addition to the City's concern regarding cleanliness, food waste is heavy and disproportionately contributes to injuries of our drivers and helpers. We have put automated devices on our trucks to reduce the lifting our drivers have to do, and containerizing food waste will help reduce the number of lifts these drivers have to perform in a night, especially with heavy material.

I ask for two considerations on the proposed rule: First, food establishments that have compost programs and containerize

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their food waste, should not have to containerize the other waste, so long as it is food free. By doing this, the City will be encouraging organics diversion for the businesses that are not yet required to have separate organic collection. And this change in designation will help differentiate those streams customers put out.

And I'll also add to that, that

Mr. Rigie -- I'm sorry if I'm mispronouncing
his name, and Mr. Mark, are concerned about
the storage of the containers and the numbers
of them, and by just doing it for the
organics, you'll reduce the number of
containers. Businesses that engage in
organics program will need less garbage
pickups, and the added burden of
containerizing the nonfood waste will
discourage the diversion goals somewhat.

The second consideration I asked for, and this was already echoed before, is I asked for guidance to avoid enforcement issues. If the City uses these new rules to start citing businesses for improperly placed containers, it will discourage the

containerization and organics diversion. An extended educational approach by both BIC and DSNY would be far more productive in achieving all the City's goals. Let's work together to not only reduce rats and other vermin, but to increase organics collections and diversions.

Thank you.

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MS. LIGUORI: Okay. Our next person signed up to testify is Sebastian Hallum Clarke. And once again, I do apologize if I've pronounced anyone's name incorrectly.

MR. CLARKE: Hi, there. I'm Sebastian. And thank you for giving me the opportunity to testify. I'm just a regular New Yorker. I live in Manhattan, and I dislike the way how when I walk down the street, there's a lot of garbage sitting on the sidewalk. I'm overall really supportive of the City's efforts to try to containerize our waste and get it less sitting on the sidewalks.

I am a bit concerned, and in this proposed rule change, about the way how these containers, it sounds like, will be taking up more sidewalk space. And most New Yorkers

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are pedestrians. Very few New Yorkers are car drivers. And so, I would prefer if these containers, instead of being placed on the sidewalks, were stored in these rigid containers on the curb lane. I think that that would be less of an obstruction to pedestrians and would make it easier for the carters to be able to pick up the trash and potentially using those automated mechanized systems that we were hearing about earlier.

So, thank you very much to the officials and the department who are working on this policy. I hope we can get our streets clearer soon.

Thank you.

MS. LIGUORI: Thank you very much.

May I next call Jackson Chabot from Open Plans.

MR. CHABOT: Good morning. How are you? My name is Jackson Chabot, and I'm the director of advocacy and organizing at Open Plans. I'd like to build off of Christine's testimony, as well as Sebastian's testimony, with three general, but specific, points building off of that.

First, at Open Plans, we would love to see these rules prioritize the pedestrians.

As Sebastian said, most New Yorkers are walkers. Most New Yorkers do not drive.

It's always great to get the trash bags off to the sidewalk, especially trash from restaurants that's more likely to attract rodents and vermin. We believe that placing these piles of bags with permanent bins is much better in the curbside lane, rather than on the sidewalk, so that it is pedestrian-friendly. It's also accessible for all New Yorkers perhaps with mobility devices as well.

We know this is especially important whether it's across the City in variety of neighborhoods where there might be narrow sidewalks, and placing bins on the sidewalks will only make it harder for pedestrians to get by. So, we recommend only placing the bins in the curbside lane, rather than in the pedestrian space.

Second, building off of that, the containers holding the restaurant trash should absolutely be placed in the curbside

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lane, ensuring, again, that pedestrians have adequate space, in placing it there. So, prioritizing people, again, over car space and placing the bin in the curbside lane is a reasonable option.

And then, finally, in conclusion, we believe that public health and public space are inextricably linked. We know that public space is crucial to public health, and we want clean sidewalks. We want clean streets, and we need to ensure that we're using every tool in our toolbox to do this. And so, we're wholly supportive of placing containerized trash, again, in the curbside lane as a concrete way to mitigate New York's rat population. Safe and healthy public space looks like swept streets and sidewalks free from rats and having trash in bins.

Thank you.

MS. LIGUORI: Thank you very much.

I may now call Diego Barberena from WasteTech Solutions, LLC.

MR. BARBERENA: Yes, hi. My name is Diego Barberena, and I just want to follow with what the three people have said,

1	Sebastian and I think the most important
2	thing is to prevent the problems that we have
3	on the sidewalks with the trash.
4	And the City just released a study that
5	actually addressed all of this, and their
6	solution is these sidewalk containers. The
7	problem is that none of the carters city
8	officer, but we do sell them and we're here
9	to help. If anyone need any information
10	about them, they can contact me.
11	Thank you.
12	MS. LIGUORI: Thank you very much.
13	I'm going to circle back to see if
14	anyone else joined, that had signed up to
15	testify.
16	Paul Denamiel or anyone from Le Rivage
17	Restaurant?
18	(No response).
19	MS. LIGUORI: Anyone from the National
20	Supermarket Association?
21	(No response).
22	MS. LIGUORI: Anyone from the New York
23	State Latino Restaurant Bar and Lounge
24	Association?
25	(No response).

1	MS. LIGUORI: If anyone here would like
2	to testify, please indicate so in the chat or
3	use the raise-hand function.
4	(No response).
5	MS. LIGUORI: Once again, comments can
6	be submitted up to 5 p.m. today. You could
7	e-mail them to nycrules@dsny.nyc.gov, or you
8	could even submit your rules (sic) online at
9	nyc.gov/nycrules by 5 p.m. today.
10	Once again, I'm going to call the three
11	people that did sign up to testify.
12	Paul Denamiel or anyone from Le Rivage
13	Restaurant?
14	(No response).
15	MS. LIGUORI: Anyone from the National
16	Supermarket Association?
17	(No response).
18	MS. LIGUORI: Anyone from the New York
19	State Latino Restaurant Bar and Lounge
20	Association?
21	(No response).
22	MS. LIGUORI: Does anyone else wish to
23	testify? This is the last call to testify.
24	Please indicate so in the chat or use the
25	raise-hand function.

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1
                   (No response).
 2
                    MS. LIGUORI: Seeing no one else that
              wishes to testify, thank you very much for
 3
              attending today's public hearing, and have a
 4
 5
              great day.
 6
                    Thank you.
 7
                   (TIME NOTED: 10:31 a.m.)
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1	CERTIFICATE
2	
3	STATE OF NEW YORK)
4	:SS
5	COUNTY OF QUEENS)
6	
7	I, Sabrina Brown Stewart, a shorthand
8	reporter within and for the State of New York, do
9	hereby certify that the within is a true and
10	accurate transcript of the statement taken on
11	June 22, 2023.
12	I further certify that I am not related to
13	any of the parties to this action by blood or by
14	marriage, and that I am in no way interested in the
15	outcome of this matter.
16	IN WITNESS WHEREOF, I have hereunto set my
17	hand this 30th day of June, 2023.
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20	Sabrina Brown-Stewart
0.1	Sabrina Brown Stewart
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