

In Re Public Hearing Use of Certain Receptacles NYC - Department  
of Sanitation  
October 24, 2023

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REMOTE PUBLIC HEARING  
DSNY IS PROPOSING TO AMEND ITS RULES REGARDING  
THE USE OF CERTAIN RECEPTACLES BY CERTAIN  
COMMERCIAL ESTABLISHMENTS  
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Held Remotely  
Webex Video Conference  
DATE: October 24, 2023  
TIME: 10:15 a.m.

VIRTUAL PUBLIC HEARING in the  
above-referenced matter, held via  
videoconference at the above time, before  
Michele Simone, a Notary Public for and within  
the State of New York.

LH REPORTING SERVICES, INC.  
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718-526-7100

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October 24, 2023

1 A P P E A R A N C E S:

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3 MADELYNN LIGUORI - Senior Counsel Bureau of  
4 Legal Affairs, DSNY

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7 S P E A K E R S:

8 Clare Mifflin

9 Diego Barberena

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1 MS. LIGUORI: Good morning and  
2 welcome. My name is Madelynn Liguori. I am  
3 Senior Counsel in the Bureau of Legal Affairs  
4 for the Department of Sanitation. Thank you for  
5 attending this public hearing this morning.

6 DSNY is conducting this remote  
7 hearing in accordance with the requirements of  
8 the City Administrative Procedure Act. The  
9 purpose of this hearing is to receive comments  
10 from the public on DSNY's proposed rule relating  
11 to the use of receptacles by certain commercial  
12 establishments. This rule was published by  
13 DSNY in the City Record of September 19th, 2023,  
14 with a scheduled hearing date of today, October  
15 24th, 2023. Additionally, DSNY e-mailed copies  
16 of the rule to all New York City local elected  
17 officials, the City's fifty-nine community  
18 boards, media and interested parties, and  
19 published the proposed rule on its website.

20 DSNY rules currently allow for all  
21 commercial establishments to set up their waste  
22 and recyclable materials within one hour of  
23 closing, provided that the scheduled collection  
24 occurs before the establishment next reopens for  
25 business, and only if such materials are placed

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1 out for collection in receptacles with  
2 tight-fitting lids. Those establishments that  
3 place materials out for collection in bags,  
4 regardless of the time they close, may place  
5 those materials at the curb no earlier than 8:00  
6 p.m.

7 DSNY recently adopted rules that  
8 require all food-related businesses and  
9 commercial establishments, that are a part of a  
10 chain of stores, to set out any putrescible  
11 solid waste, including refuse and organic waste,  
12 at the curb for private carter collection in  
13 rigid receptacles with tight-fitting lids.

14 This new proposed rule would amend  
15 this recent rule and expand this requirement to  
16 include all commercial establishments,  
17 regardless of whether such establishments have  
18 food-related businesses or are part of a chain  
19 of stores.

20 These changes are a part of the  
21 City's commitment to cleaning up New York City  
22 streets and reducing food sources for rats.  
23 Businesses are generators of putrescible waste,  
24 including organics, and bags of waste set out  
25 for collection on the curb, even when in

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1 compliance with existing waste set-out  
2 requirements, attract rats and vermin and are  
3 unsightly. Requiring these businesses that  
4 produce any amount of food waste to place their  
5 putrescible waste in sealed containers will  
6 meaningfully limit potential food sources for  
7 vermin, while also helping to keep our sidewalks  
8 free of piles of black bags that obstruct  
9 pedestrians.

10           These changes align with other City  
11 initiatives to increase the use of containers  
12 for waste storage and collection, creating  
13 cleaner, more livable, and more vibrant streets  
14 and neighborhoods across New York City.

15           A court reporter is present today and  
16 will record the hearing. You may present an  
17 oral statement or submit written comments  
18 concerning the proposed rule. We have been  
19 accepting written comments on the proposed rule  
20 since it was published.

21           Today is the deadline for submission  
22 of written comments. Such comments may be  
23 e-mailed directly to [nycrules@dsny.nyc.gov](mailto:nycrules@dsny.nyc.gov) by  
24 5:00 p.m. today. DSNY will make available a  
25 copy of all written comments received through

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1 today, together with the hearing transcript, for  
2 viewing on its website within the next few  
3 weeks. DSNY will carefully consider all the  
4 comments it receives today at the hearing and  
5 all written comments it receives.

6 I will begin calling those who wish  
7 to speak this morning in the order in which you  
8 have signed up to testify. While the notice  
9 requested that persons wishing to testify sign  
10 up in advance of this hearing, anyone wishing to  
11 testify at this time may do so by indicating in  
12 the chat area that you wish to testify, by  
13 indicating your name and affiliation, if any.

14 When you speak, please state your  
15 name and affiliation, and speak slowly and  
16 clearly so that the court reporter can  
17 understand and accurately record your statement.  
18 We also ask that you limit your statements to  
19 five minutes.

20 I would now like to call the first  
21 person to testify, Clare Miflin, from the Center  
22 for Zero Waste and Design. Clare.

23 MS. MIFLIN: Hello, my name is Clare  
24 Miflin, Executive Director of the Center  
25 for Zero Waste Design. We are a

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1 nonprofit that develops and implements  
2 design strategies to reduce and better  
3 manage waste, whether in buildings or in  
4 the public realm, which enables cities  
5 to improve streetscapes and equitably  
6 achieve zero waste and secular material  
7 systems.

8 We thank the Department of  
9 Sanitation for this opportunity to  
10 comment on their proposed rule and we  
11 fully support the Department of  
12 Sanitation's aim to get rid of bags of  
13 trash piled up on sidewalks and instead  
14 move to a system where waste is  
15 collected from containers by mechanized  
16 trucks, whether this is by DSNY or by  
17 private carters.

18 However, we do believe that in this  
19 change, there are so many opportunities  
20 to achieve other goals, whether  
21 improving streetscapes, reducing waste,  
22 increasing diversion, or reducing costs  
23 to businesses and residents.

24 We believe slight adjustments to  
25 this proposed rule would allow the City

1 to move closer to its zero waste goal  
2 and take up less valuable public space  
3 on sidewalks.

4 Since earlier this year, when DSNY  
5 first adopted the rule requiring  
6 food-related business to use rigid  
7 receptacles, we, and I'm sure most of  
8 the people in this court, have seen  
9 trash bins permanently placed on  
10 sidewalks in front of those businesses,  
11 often chained to lamp posts or storm  
12 drains, often overfull. And even when  
13 neat, they still take up valuable  
14 sidewalk space. And I have put some  
15 photos in my uploaded testimony.

16 We see several ways that this rule  
17 could be tied to initiatives to reduce  
18 waste and separate food waste in various  
19 ways. At a minimum, it could be -- DSNY  
20 could use this opportunity to enforce  
21 the commercial organics rules. We've  
22 seen so many businesses that should fall  
23 under those rules just setting out trash  
24 and not any organic waste.

25 Next, we had an idea that maybe what

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1 if this rule only allowed one trash bin  
2 per business, because then that would  
3 incentivize the business to separate  
4 organics waste and recycling. Because  
5 mostly I just see businesses set out  
6 trash, despite the fact that most of the  
7 food services business waste is organic  
8 waste. So if it was limited to one  
9 trash bin per business, it would  
10 incentivize those businesses to better  
11 separate waste, to use washable dishware  
12 and cups within the restaurant to  
13 minimize use of disposable packaging.

14 And larger businesses have  
15 opportunities to store bins within  
16 inside or use compaction equipment. So  
17 I think the one trash bin rule would  
18 provide the needed relief for small  
19 businesses that are very space  
20 constrained and incentivize all  
21 businesses to produce less trash.

22 But most importantly, I think this  
23 initiative, I think the most  
24 opportunities would happen if it was  
25 tied to a commercial waste zoning,

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1 because this would give private haulers  
2 an incentive to containerize waste, and  
3 to provide those containers, and then  
4 those containers could be much -- those  
5 containers could be in the street  
6 themselves, they could be shared between  
7 multiple businesses, they could be the  
8 larger containers that are more designed  
9 into streetscapes and could look much  
10 better and they could have so many  
11 benefits. So since that is upcoming  
12 anyway, I think tying those two things  
13 together would bring a lot of value.

14 I'm also really worried with the  
15 latest move to require one to nine unit  
16 buildings to use rigid containers in the  
17 future. On our kind of main streets  
18 with commercial storefronts and one to  
19 nine family residences above, there  
20 could be six or more bins in front of  
21 one single storefront, for the  
22 residences above and the commercial  
23 businesses. And yes, we will have got  
24 rid of bags on sidewalks but we'll just  
25 have so many permanent bins on the

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1 sidewalk when we could do so much  
2 better.

3 Thank you so much for this  
4 opportunity to testify. And if anybody  
5 wants to see more on my testimony, the  
6 links and photos are on the uploaded  
7 testimony.

8 MS. LIGUORI: Thank you so much for  
9 your testimony.

10 Does anyone else wish to testify?  
11 You may indicate so in the chat or you  
12 may also use the raise-hand function.

13 DSNY will be accepting written  
14 comments up until 5 p.m. today. They  
15 may be e-mailed at [nycrules@dsny.nyc.gov](mailto:nycrules@dsny.nyc.gov)  
16 or they may be submitted via  
17 [nycrules.gov](http://nycrules.gov). I will put the link in  
18 the chat.

19 Mr. Barberena has indicated a wish  
20 to testify.

21 MR. BARBERENA: Yes. Can you hear  
22 me?

23 MS. LIGUORI: Yes.

24 MR. BARBERENA: I will be brief. My  
25 name is Diego Barberena. I live here in

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1 the city and I have a small business  
2 that provides these big containers that  
3 DSNY wants to use in the future.

4 And I just want to second what  
5 Claire says, that it will be good to  
6 have an option to offer shared  
7 containers to small business so small  
8 businesses go and drop the trash through  
9 these containers. And the private  
10 carting can have an agreement with the  
11 City that they will collect these  
12 containers and maybe the small  
13 businesses will pay a fee to use these  
14 containers and then the private carter  
15 will be paid. And that's about it.  
16 Thank you.

17 MS. LIGUORI: Thank you very much,  
18 Mr. Barberena.

19 If anyone else wishes to testify,  
20 you may indicate that in the chat or use  
21 the raise-hand function.

22 Once again, written comments may be  
23 submitted until 5:00 p.m. today via  
24 e-mail at [nycrules@dsny.gov](mailto:nycrules@dsny.gov) or at the  
25 NYC's Rules website, which I indicated

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1 in the chat. You can also just do  
2 nyc.gov/nycrules and it will bring you  
3 to that website and you may submit your  
4 testimony or your written comments in  
5 that fashion as well.

6 If anyone wishes to testify, please  
7 indicate so in the chat or use the  
8 raise-hand function.

9 Since no one else indicated they  
10 wish to testify, the Department of  
11 Sanitation will call this hearing to a  
12 close. Thank you very much.

13 Once again, any comments you may  
14 have can still be submitted until 5 p.m.  
15 today at nycrules@dsny.nyc.gov or via  
16 the NYC Rules website. Thank you very  
17 much for attending today's hearing.

18 (TIME NOTED: 10:27 a.m.)  
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<p><b>19th</b> 3:13</p> <p><b>24th</b> 3:15</p> <p><b>30th</b> 14:18</p> <p><b>about</b> 12:15</p> <p><b>above</b> 15 10:19,22</p> <p><b>abovereferenced</b> 14</p> <p><b>accepting</b> 5:19 11:13</p> <p><b>accordance</b> 3:7</p> <p><b>accurate</b> 14:10</p> <p><b>accurately</b> 6:17</p> <p><b>achieve</b> 7:6,20</p> <p><b>across</b> 5:14</p> <p><b>act</b> 3:8</p> <p><b>action</b> 14:14</p> <p><b>additionally</b> 3:15</p> <p><b>adjustments</b> 7:24</p> <p><b>administrative</b> 3:8</p> <p><b>adopted</b> 4:7 8:5</p> <p><b>advance</b> 6:10</p> <p><b>affairs</b> 2:3 3:3</p> <p><b>affiliation</b> 6:13,15</p> <p><b>again</b> 12:22 13:13</p> <p><b>agreement</b> 12:10</p> <p><b>aim</b> 7:12</p> <p><b>align</b> 5:10</p> <p><b>allow</b> 3:20 7:25</p> <p><b>allowed</b> 9:1</p>	<p><b>also</b> 5:7 6:18 10:14 11:12 13:1 (5)</p> <p><b>am</b> 9 3:2 13:18 14:13,15 (5)</p> <p><b>amend</b> 3 4:14</p> <p><b>amount</b> 5:4</p> <p><b>anybody</b> 11:4</p> <p><b>anyone</b> 6:10 11:10 12:19 13:6 (4)</p> <p><b>anyway</b> 10:12</p> <p><b>are</b> 3:25 4:9,18,20,23 5:2 6:25 7:19 9:19 10:8 11:6 (11)</p> <p><b>area</b> 6:12</p> <p><b>ask</b> 6:18</p> <p><b>attending</b> 3:5 13:17</p> <p><b>attract</b> 5:2</p> <p><b>available</b> 5:24</p> <p><b>bags</b> 4:3,24 5:8 7:12 10:24 (5)</p> <p><b>barberena</b> 2:9 11:19,21,24,25 12:18 (6)</p> <p><b>because</b> 9:2,4 10:1</p> <p><b>before</b> 15 3:24</p> <p><b>begin</b> 6:6</p> <p><b>believe</b> 7:18,24</p> <p><b>benefits</b> 10:11</p> <p><b>better</b> 7:2 9:10 10:10 11:2 (4)</p> <p><b>between</b> 10:6</p> <p><b>big</b> 12:2</p> <p><b>bin</b> 9:1,9,17</p> <p><b>bins</b> 8:9 9:15 10:20,25 (4)</p>	<p><b>black</b> 5:8</p> <p><b>blood</b> 14:14</p> <p><b>boards</b> 3:18</p> <p><b>brief</b> 11:24</p> <p><b>bring</b> 10:13 13:2</p> <p><b>buildings</b> 7:3 10:16</p> <p><b>bureau</b> 2:3 3:3</p> <p><b>business</b> 3:25 8:6 9:2,3,7,9 12:1,7 (8)</p> <p><b>businesses</b> 4:8,18,23 5:3 7:23 8:10,22 9:5,10,14,19,21 10:7,23 12:8,13 (16)</p> <p><b>c</b> 2:1 14:2,2</p> <p><b>call</b> 6:20 13:11</p> <p><b>calling</b> 6:6</p> <p><b>can</b> 6:16 11:21 12:10 13:1,14 (5)</p> <p><b>carefully</b> 6:3</p> <p><b>carter</b> 4:12 12:14</p> <p><b>carters</b> 7:17</p> <p><b>carting</b> 12:10</p> <p><b>center</b> 6:21,24</p> <p><b>certain</b> 4,4 3:11</p> <p><b>certify</b> 14:10,13</p> <p><b>chain</b> 4:10,18</p> <p><b>chained</b> 8:11</p> <p><b>change</b> 7:19</p> <p><b>changes</b> 4:20 5:10</p> <p><b>chat</b> 6:12 11:11,18 12:20</p>
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**zoning** 9:25

**500** 5:24 12:23

**800** 4:5

**1015** 9

**1027** 13:18

**2023** 24 3:13,15 14:12,18 (5)

**7185267100** 21