

## NEW YORK CITY OFFICE OF EMERGENCY MANAGEMENT

### Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The New York City Office of Emergency Management (“OEM”) is proposing a new rule to continue the temporary emergency food delivery program for vulnerable homebound New Yorkers who are impacted by food insecurity during the COVID-19 declared public emergency and who meet certain eligibility criteria.

**When and where is the hearing?** The Department will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. Monday, August 24, 2020. No in-person hearing will occur. To participate in the public hearing, enter the WEBEX URL: <https://nycem.webex.com/nycem/j.php?MTID=m0ee362464a67969d9bb5b08fe4a78c28> If prompted to provide a password or number, please enter the following: **MEETING NUMBER: 129 065 3765 Password Tp7Xt7Jzji** You may also join the meeting via device audio or dial-in via phone. **To dial-in via phone, please use the following dial-in phone number and participant code: Phone: 1-646-992-2010 OR 1-408-418-9388 Access Code: 1290653765** from phones and video systems. If you have low bandwidth or inconsistent internet connection, use the dial-in option for the hearing. This will reduce the possibility of dropped audio and stutters.

**How do I comment on the proposed rule?** Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to OEM through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to [FoodDeliveryRule@oem.nyc.gov](mailto:FoodDeliveryRule@oem.nyc.gov)
- **Mail.** You can mail written comments to OEM at 165 Cadman Plaza East, Brooklyn, New York 11201 Att: Legal Unit
- **Fax.** You can fax written comments to OEM at 718 422 8453

**By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 917 902 2008 or by emailing [sguarna@oem.nyc.gov](mailto:sguarna@oem.nyc.gov). You can also sign up to speak, by emailing [FoodDeliveryRule@oem.nyc.gov](mailto:FoodDeliveryRule@oem.nyc.gov) no later than 9:45 am on August 24, 2020. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by August 24, 2020.

**Do you need assistance to participate in the hearing?** You must tell OEM Legal Unit at [sguarna@oem.nyc.gov](mailto:sguarna@oem.nyc.gov) if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 917 902 2008. You must tell us by Monday, August 17, 2020.

**Can I review the comments made on the proposed rule?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at OEM’s website.

**What authorizes OEM to make this rule?** Section 497 of the New York City Charter authorizes OEM to make this proposed rule. This proposed rule was not included in OEM’s regulatory agenda for this fiscal year, as the program evolved in response to the COVID-19 and was not contemplated earlier.

**Where can I find OEM’s rules?** OEM’s rules are located in Title 72 of the Rules of the City of New York.

**What rules govern the rulemaking process?** OEM must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

### **Statement of Basis and Purpose of Proposed Rule**

The New York City Office of Emergency Management (“OEM”) previously issued a temporary emergency rule establishing an emergency food delivery program for vulnerable homebound New Yorkers who (1) are impacted by food insecurity during the declared COVID-19 public health emergency and (2) meet certain eligibility criteria. Under the Charter, emergency rules remain in effect for 60 days unless extended by the agency. OEM now seeks to continue the program by establishing the program by rule on an ongoing basis.

The emergency food delivery program feeds New Yorkers facing food insecurity during the COVID-19 public health emergency by paying Taxi and Limousine Commission-licensed drivers of taxis and for-hire vehicles, or other drivers as determined by the agency, to deliver free meals to program participants. The program is focused on the City’s most vulnerable populations.

In order to receive services under the program, the individual or family must meet all of the following criteria:

1. No member of the household is able to obtain food from outside the home:
  - o as a result of the COVID-19 public health emergency (e.g. the individual is in quarantine or otherwise restricted to their home as a result of City and/or State emergency orders and policies adopted in response to the COVID-19 public health emergency); or
  - o because the individual is elderly, a person with a disability, or a person with functional needs that prevent or impede travel outside home to obtain food regularly; and
2. The individual or family lacks neighbors or other family members that can and are willing to regularly obtain food for the individual or family; and
3. The individual or family does not receive meal assistance sufficient to cover all meal needs from existing meal delivery programs (including but not limited to Meals on Wheels and God's Love We Deliver); and
4. The household is either:
  - o unable to afford meal delivery or grocery delivery as a result of the COVID-19 Public Health Emergency (e.g., crisis led to job loss or other adverse impact on income); or

- o normally relies on public food services (e.g., food pantry, soup kitchen, etc.) that are unavailable to the individual or family due to the COVID-19 public health emergency.

This rule is necessary because food insecurity among a growing number of New Yorkers is an immediate, continuing and significant problem facing the City during the COVID-19 public health crisis. In addition, as businesses lay off workers in response to the emergency orders described above and as individuals remain in their homes and practice social distancing to the maximum extent possible, the City is seeing an increased number of food insecure New Yorkers. This includes but is not limited to those who would normally rely on services outside the home such as food pantries, soup kitchens, or other free food service programs. Existing programs for the home delivery of food to food insecure individuals, operated by the City or by non-profits such as Meals on Wheels and God's Love We Deliver, do not have adequate staffing or financial capacity to meet the increased needs of this population during the period of this emergency.

In order to address the urgent and growing challenge of providing adequate food supply to vulnerable, homebound New Yorkers, the City has developed an emergency food delivery program.

For food insecure residents who meet the criteria described above, home delivery of meals is the safest and most efficient way to ensure that this population is receiving adequate nutrition. OEM is now proposing to add a new section 1-02 to its rules to codify this program.

New material is underlined.

[Deleted material is in brackets.]

**Section 1. Title 72 of the Rules of the City of New York is amended by adding a new section 1-02, to read as follows:**

**§ 1-02. Emergency food delivery.** a. An individual or family residing in New York City may request free meals delivered to the home of such individual or family, provided that:

1. No such individual member of the household is able to obtain food from outside the home either:
  - (i) Due to reasons related to the COVID-19 public health emergency, including but not limited to individuals in quarantine by order of a health care professional or otherwise restricted to their home as a result of City or State emergency orders and policies adopted in response to the COVID-19 public health emergency; or
  - (ii) Because the individual is over the age of 60, a person with a disability, or a person with functional needs that prevent or impede travel outside home to obtain food regularly; and
2. Such individual or family lacks neighbors or other family members that can and are willing to obtain food for the individual or family; and
3. Such individual or family does not receive sufficient meal assistance from existing meal delivery programs, including but not limited to Meals on Wheels and God's Love We Deliver; and

4. Such individual or family either:

- (i) Is unable to afford meal delivery or grocery delivery as a result of economic impacts related to the COVID-19 public health emergency, including but not limited to loss of employment or income; or
- (ii) Would otherwise rely on public food services, including but not limited to food pantries, soup kitchens and senior centers, that are unavailable or that cannot be accessed by the individual or family due to the COVID-19 public health emergency.

b. Such requests must be made in a form and manner as determined by the Commissioner of Emergency Management. Requests for meal delivery pursuant to this section may be made on the City's website or by calling the City's 311 call center.

c. Meals delivered under this program will be delivered by drivers licensed by the Taxi and Limousine Commission who have chosen to participate in this program in vehicles licensed by such Commission, or may be delivered by such other method as determined by the Commissioner of Emergency Management. Drivers licensed by the Taxi and Limousine Commission may apply to participate in this program in a form and manner as determined by the Commissioner of Emergency Management.

d. Nothing in this section shall be construed as granting any individual or family that meets the eligibility criteria provided in subdivision a of this section a right to receive meal delivery services under this program. In addition to the requirements for eligibility set forth in subdivision a of this section, delivery of meals pursuant to this section is subject to availability of food and drivers.

e. The program provided for in this chapter will terminate at the end of the COVID-19 public health emergency, as determined by Order of the Mayor, or on such other date as determined by the Commissioner of Emergency Management.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Temporary Food Distribution Program (Permanent Rule)

**REFERENCE NUMBER:** 2020 RG 071

**RULEMAKING AGENCY:** Office of Emergency Management

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: July 15, 2020

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Temporary Food Distribution Program (Permanent Rule)**

**REFERENCE NUMBER: OEM-2**

**RULEMAKING AGENCY: Office of Emergency Management**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro  
Mayor's Office of Operations

July 16, 2020  
Date