

**Notice of Adoption of Final Rule Relating to Use of Certain Receptacles
By Entities Receiving Curbside Collection From a Private Carter**

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 entities receiving curbside collection from a private carter. DSNY published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on July 8, 2024. On August 8, 2024, DSNY held a public hearing on the proposed rule.

Statement of Basis and Purpose

DSNY rules currently allow for all commercial establishments that receive curbside collection from a private carter 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.

DSNY rules currently require that all commercial establishments set out any putrescible solid waste at the curb for private carter collection in rigid containers with tight-fitting lids. This new rule would amend this rule and expand this requirement to include any entity, and not just commercial establishments, that receives private carter collection. Non-commercial establishments that receive private carter collection may request a waiver from the Department from such requirements if compliance would create a public safety hazard for pedestrians or pose an unreasonable hardship. Examples of such non-commercial establishments include office buildings and hospitals. A waiver would be available to non-commercial establishments receiving private carter collection but not to commercial establishments because commercial establishments were already subject to containerization requirements before the adoption of this rule without being eligible for a waiver and the non-commercial establishments receiving private carter collection include very large buildings which are more likely to struggle with existing container solutions. Instructions relating to such waiver requests would be outlined on the

Department's website. There will also be an appeals process for those buildings or entities that are denied such waiver request. The rule also eliminates the category of "chain stores" as it no longer applies since all commercial establishments are now covered. Additionally, this rule prohibits the use of a Department authorized bin by any entity that receives private carter service. Such authorized bins are only to be used by those that receive DSNY collection service.

These changes are a part of the City's commitment to cleaning up New York City streets and reducing food sources for rats. All entities that receive private carter collection, other than commercial establishments, are generators of putrescible waste, including organics, and bags of waste set out for collection on the curb, even when in compliance with existing waste set out requirements, attract rats and vermin and are unsightly. Requiring everyone receiving private carter collection who produces any amount of food waste to place their putrescible waste in sealed containers will meaningfully limit potential food sources for vermin while also helping to keep our sidewalks free of unattractive piles of black bags.

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. Section 1-02.4 of Title 16 of the Rules of the City of New York is amended to read as follows:

§ 1-02.4 [Receptacles Required for Certain Commercial Establishments] Receptacle Requirements for Entities Receiving Curbside Collection from a Private Carter.

(a) *Definitions.*

[1. The terms “catering establishment”, “food manufacturer”, “food preparation establishment”, “food service establishment”, “food wholesaler”, and “retail food store” have the same meanings as in § 16-306.1 of the Administrative Code.

2. The term “chain of stores” means a commercial establishment that operates five or more stores located within the city of New York that are engaged in the same general field of business and conduct business under the same business name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

3. ~~The] For purposes of this section, the term “commercial establishment” means an entity that is required to provide for the removal of waste pursuant to the provisions of § 16-116 of the Administrative Code.~~

(b) The following 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):

1. [Catering establishments, food manufacturers, food preparation establishments, food service establishments, food wholesalers, and retail food stores.

2. A commercial establishment that is part of a chain of stores and that is not included pursuant to paragraph (1) of this subdivision.

3. Any] All commercial [establishment receiving] establishments that receive curbside collection of waste by a private carter [that is not included pursuant to paragraphs (1) or (2) of this subdivision].

2. Any other entity that receives curbside collection of waste by a private carter that is not defined in subdivision (a) of this section.

(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] those entities that receive off-street collection, including collection from inside a loading dock, by a private carter.

(e) Notwithstanding the requirements of this section, [commercial establishments] those entities that receive private carter collection 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.

(f) Notwithstanding the requirements of this section, any entity included in paragraph 2 of subdivision (b) of this section may request a temporary waiver from the Department from the

requirements of this section if compliance would create a public safety hazard for pedestrians or if compliance with these requirements would pose an unreasonable hardship, provided that:

1. Entities must submit a waiver request using a form available on the Department's website;

2. The Department will notify such entity within 60 days if such temporary waiver has been granted or denied;

3. Entities denied a temporary waiver have 30 days to submit an appeal in writing to the Commissioner. The Commissioner will issue a decision on such appeal in a reasonable time, and such decision will be deemed a final determination. Such entity will not be required to comply with the requirements of this section until a final determination is made by the Department; and

4. Such temporary waiver will only be in effect until the Department implements a containerization solution that can accommodate the volume of refuse that such entity regularly produces without creating a public safety hazard for pedestrians or an unreasonable hardship.

(g) No entity may utilize a bin from an authorized vendor as defined in subdivision (a) of section 1-02.5 of this chapter for collection by a private carter.