



Comments Received by the Department of  
Consumer and Worker Protection on

Proposed Rules related to Local Law 64 and the  
Implementation of the Single Use Beverage Plastic  
Ban

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**Comments on the  
NYC Department of Consumer and Worker Protection's Proposed New  
Penalty Schedule to  
Implement Local Law 64 of 2021**

**October 13, 2021**

My name is Andrew Rigie and I'm the Executive Director of the New York City Hospitality Alliance, a not-for-profit association representing restaurants and nightlife establishments throughout the five boroughs. Our comments refer to the Department of Consumer and Worker Protection's (DCWP) new penalty schedule implemented by Local Law 64 of 2021, which creates restrictions on single-use plastic beverage straws, beverage stirrers, and beverage splash sticks (collectively, "single-use beverage plastics").

DCWP's proposed rule does not include reference to the local law's provision stating that the Department shall not issue a notice of violation but shall issue a warning for any first violation that occurs before November 1, 2022. We request that this provision be included in the final Rule.

We appreciate DCWP's consideration of our comment. Any questions or concerns, I am reachable at [arigie@thencalliance.org](mailto:arigie@thencalliance.org).

Respectfully submitted,



Andrew Rigie  
Executive Director

Dear DCA,

They say we eat a credit cards worth of plastic in a week. Not only are microplastics a health hazard, the fact that plastic is made from petroleum is also cause for alarm. Additionally, straws, because of their shape, cause issues to marine animals. You are likely aware of the many reasons to ban plastic straws, stirrers and splash guards, which is why you have chosen to pass Local Law 64. Thank you!

The main comment we would like to make is that we have put the needs of businesses in front of environmental needs for decades and this has gotten us into the environmental crisis we now face. We cannot continue to prioritize convenience and the cost of doing business over the health and safety of our planet. We support the \$100 to \$400 sliding fine schedule that has been proposed for businesses who violate this ban. We urge the city to educate the public about the ban and offer a way to report offenders. We further ask that NYC educate the public how plastic straws are reserved ONLY for people with disabilities, and this loophole should not be abused by those without disabilities.

While single-use plastics should be avoided as much as possible, compostable materials also contribute to marine debris and landfill mass if improperly disposed of. We applaud the law for recognizing this by making compostable straws provided upon request for use only on the premises and only if the food service establishment properly separates and disposes of those straws through a contract with a commercial composting vendor. We support an equal penalty for this provision.

Thank you,  
Jan Thompson, Alrun Steinrueck  
Plastic-free team @ 350 Brooklyn

## Online comments: 2

- **Eileen Leonard**

I support penalties for single-use beverage plastics. The City needs to do a better job than what the State has done on the plastic bag ban which is not sufficiently being enforced. Instead, multiple City government agencies must immediately begin a comprehensive public education campaign to inform citizens and every business that is covered by the law of these provisions. The City must do extensive public outreach to all food service establishments in the City prior to this November via printed letters, emails, phone calls, trade press outreach, newspaper placements, social media announcements, and more. They must inform the public, announcing the forthcoming changes via print and online media, social media, and more. The new law is easy to understand: Food service establishments may not give customers a single-use plastic beverage straw, beverage stirrer, or beverage splash guard unless the customer specifically requests one.

Comment added October 3, 2021 10:39am

- **Joshua Spodek**

As a New York resident since the 1980s I have seen litter and garbage skyrocket, especially in recent years. I

remember decades ago a lot of litter, but not things that took millennia to break down, poisonous the whole time. Their manufacture didn't heat the globe as much as drilling fossil fuels.

Please see the videos and images I made of the dire situation, how much litter is on our streets, overwhelmingly beverage plastic.

– <https://joshuaspodek.com/another-morning-walk-seeing-litter-in-my-neighborhood>

– <https://joshuaspodek.com/pride-destroyed-the-park-washington-square-park-after-a-parade>

– <https://joshuaspodek.com/video-whats-wrong-with-new-york-city>

Note this morning's news on France banning plastic nationwide starting this

January: <https://www.france24.com/en/europe/20211011-france-to-ban-plastic-packaging-for-fruit-and-vegetables-from-january-2022>

New York City could lead the world. Banning cigarettes was predicted to hurt business but it helped, as did pedestrianizing Times Square.

Banning plastics will bring people to our home city to see its beauty, currently covered up with smelly, rat-attracting plastic waste.

Comment added October 12, 2021 5:14pm

NEW YORK CITY  
DEPARTMENT OF CONSUMER AND WORKER PROTECTION

PUBLIC HEARING ON THE PROPOSED RULES  
TO IMPLEMENT LOCAL LAW 64 OF 2021

Virtual Public Hearing

October 13, 2021

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1 MR. CHARLIE DRIVER: Hey, Alexis. You're from Beyond Plastics,  
2 correct?

3 MS. ALEXIS GOLDSMITH: Yes, I am --

4 MR. DRIVER: Okay.

5 [CROSSTALK]

6 MS. GOLDSMITH: -- Judith couldn't come so she --

7 [OFF MIC CONVERSATION]

8 MS. GOLDSMITH: -- division --

9 MR. DRIVER: Alexis, I'm not sure if you're able to hear us, but you're  
10 frozen right now.

11 [OFF MIC CONVERSATION]

12 MR. DRIVER: We'll give her a second to see if she notices and rejoins.

13 [OFF MIC CONVERSATION]

14 [OFF THE RECORD]

15 [ON THE RECORD]

16 MR. DRIVER: Okay. So Alexis I assume is going to rejoin us in a sec.,  
17 and then we'll get started. Thanks everyone for your patience.

18 MS. GOLDSMITH: My computer crashed. I don't know what's going on  
19 with it, but now I'm here.

20 MR. DRIVER: Okay. Great. So you're going to be testifying, Alexis,  
21 from Beyond Plastics, correct?

22 MS. GOLDSMITH: Yeah. Yeah.

23 MR. DRIVER: Okay. Great. I have you on the list already. You guys  
24 are at the top so.

25 MS. GOLDSMITH: Oh, great. Thank you.

26 MR. DRIVER: Great. And I see that Josh just joined the call. Josh, just  
27 send me a chat message, if you're interested in testifying so I can make you're on the  
28 list. Otherwise, I think we're going to get started here. So I, I just have to read some  
29 things just to get us underway.

30 So good morning everyone. My name is Charlie Driver [phonetic]. I  
31 have been designated as the Hearing Officer for the Public Hearing of the Department  
32 of Consumer and Worker Protection on the proposed rules to implement Local Law 64  
33 of 2021. This hearing is being by teleconference call. It is now 11:06 a.m. on  
34 Wednesday, October 13, 2021, and I am hereby convening the public hearing on this  
35 proposed rule.

36 The proposed rule was published in the City record on September 13,  
37 2021. The published notice and rules are available online on the NYC rules website as  
38 well as the department's website. The department has proposed these rules pursuant  
39 to the authority vested in the Commissioner of the Department of Consumer and  
40 Worker Protection by Sections 1043 and 2203(F) of the New York City Charter and  
41 Local Law 64 of 2021.

42 This hearing affords the public the opportunity to comment on all  
43 aspects of the rules the department has proposed. The department will carefully  
44 review all testimony and written comments received at this hearing and will give due

45 weight and consideration to proposals and recommendations that are submitted for  
46 the record of this hearing.

47 To ensure that everyone is see- seeking to testify will have an  
48 opportunity to do so I ask that we follow all of the following ground rules. During the  
49 hearing, all participants should give due respect and consideration to the folks offering  
50 their testif, testimony. Please make sure to mute your microphone if you are not  
51 speaking. Each witness will have a maximum of three minutes to provide oral  
52 testimony. If your comments take thre-, longer than three minutes, please synthesize  
53 your oral testimony and leave a written copy for the record. I will be timing your  
54 remarks, and I will try to DM you a warning when you have around 30 seconds  
55 remaining. I'm not going to cut you off exactly at three minutes, but if you start going  
56 into, you know, the four minute territory, I will let you know. And then unlike the limit  
57 on time for oral testimony, there is no limit on the number of pages you can submit as  
58 written testimony or as documents for the record. The written su- submission will be  
59 made part of the public record. You can e-mail rulecomements@DCA.NYC.GOV. With  
60 those comments, you can also e-mail me directly, my e-mail is in the chat.

61 And so now, just before we begin, I just want to check everyone is  
62 muted. Great. Thank you. And I'm going to start out by calling in the first witness to  
63 offer testimony. That would be Alexis Goldsmith [phonetic] from Beyond Plastics.

64 MS. GOLDSMITH: Hi. Thank you for having this hearing today. This  
65 hearing is pretty straightforward. One of the most straightforward hearings, I have  
66 ever been to, and I would just like to say we applaud the, the New York City Council for  
67 adopting this rule and for their proposed enforcement.

68                   So regarding the fee and penalty schedule, I think that as written in  
69 the law, the -- it's appropriate. Beyond Plastics would have liked to have seen a higher  
70 penalty, especially for large consumer brands and large ro-, retailers that maybe are  
71 giving out much -- many more straws than say the, the bodega. I -- we encourage a  
72 really robust education and enforcement that this rule is going into effect. We  
73 definitely want to avoid what has happened with the bag ban where the -- it was  
74 unclear what the rules were, it was unclear when it was being enforced and what the  
75 penalties were leading to many retailers continuing to give out, out plastic bags. So I  
76 think that education and awareness needs to be a really strong, and also the  
77 enforcement needs to be really strong so when we see violations of the single-use  
78 beverage plastics, there needs to be penalties and it needs to be nipped in the bud,  
79 basically. But as far as the penalty schedule goes, it's appropriate as what's written in  
80 the law, and it's, it's pretty straightforward food service establishments may not give  
81 customers a single-use plastic beverage straw, stirrer or splash guard unless the  
82 customer specifically requests one.

83                   And I know Beyond Plastics had a question about whether schools  
84 were included in this law, and we certainly need clarification. We believe that schools  
85 are included in this law, so that needs to be clarified and included in the education and  
86 outreach, so. Thank you so much.

87                   MR. DRIVER: Alright. Thank you so much Alexis. I really appreciate it.  
88 And again, feel free, if you have any written testimony or inversion of this oral  
89 testimony, you can e-mail that to us so we have it. But again, no need to do that if you  
90 don't want to.

91                   Okay. Great. Next up, we have, let me just check my chat. Great.  
92   Next up Kathleen Riley [phonetic] from New York State Restaurant Association.

93                   MS. KATHLEEN RILEY: Hi, everyone. My name is Kathleen Riley. I'm  
94   the New York City Government Affairs Coordinator for the State Restaurant  
95   Association. We're a trade group representing food and beverage establishment in  
96   the city and state. Our restaurant industry membership has been very impacted by  
97   the COVID-19 pandemic, and I'm here today to express some concerns of the  
98   proposed penalty schedule for violations of Local Law 64 of 2021.

99                   Enforcement following this penalty schedule would be overly punitive  
100   in the context of COVID-19. It would be poorly timed for operators trying to scale up  
101   purchasing of alternatives to the bi-, banned plastics, and it would also run counter to  
102   the commendable recent city efforts to shift towards education-based enforcement.

103                  When Interim 936A passed in May 2021, it looks like New York City  
104   had finally rounded the corner on COVID-19 and restaurants would be able to recover  
105   unimpeded moving forward, but since then, evidence has suggested restaurants are in  
106   a worse position that anticipated. In a recent survey done by our partners at the  
107   National Restaurant Association, restaurants in New York were reported the following  
108   stats: 71 percent of operators have a lower sales volume in August 2021 than August  
109   2019; 62 percent of operators report worse business conditions than even three  
110   months ago; and most operators are predicting a very long road ahead in the return to  
111   normal business conditions. So 20 percent said it would take 7 to 12 months, 49  
112   percent predict more than a year, and 18 percent say it will never happen. These  
113   struggling operators cannot afford to be charged hundreds of dollars in penalties.



117 frame for business to develop or purchase alternatives to the plastic materials. For  
118 example, one operator with multiple locations has informed us that their biggest  
119 delay is finding an alternative to plastic splash sticks which are fully banned by this  
120 law. Safety reasons the carry out and delivery hot beverages really do need something  
121 blocking an opening in the lid of the cup, but apparently making splash sticks out of  
122 non-plastic materials is not really feasible. So instead, the restaurant group is working  
123 to buy alternative lids that open and close, like have a cap that recloses over the  
124 drinking opening; however, finding the right product and scaling up purchasing takes  
125 time and the operator does not anticipate having their locations fully stocked for at  
126 least six or seven months. And this dynamic is especially concerning given the  
127 ambiguous language of the Local Law 64 which states such departments shall not issue  
128 notice of violation, but do a warning for any first violation that occurs before  
129 November 2022 -- November 1, 2022. We believe the intention of the language is to  
130 provide a grace period for restaurant to transition to alternative straws, stirrers and  
131 splash sticks, however, we're concerned the restaurants will be inspected multiple  
132 times in quick succession and be issued a warning followed by first and second  
133 violations before they have a chance to scale up their purchasing of alternative  
134 materials. We're concerned that the proposed rules don't adequately, adequately  
135 address that problem.

136                   Furthermore, the language of Local Law 64 pledges that the  
137 department shall provide information about available compostable single use  
138 beverage splash sticks, beverage stirrers, and beverage straws on its website. At this  
139 time, we've been unable to find that information listed online, and until such a time as  
140 the department is able to refer restaurant operators to available alternatives at scale,

141 it seems inappropriate to penalize restaurants for being unable to procure those  
142 materials for themselves.

143                   The City has also tak-, recently taken commendable action with Local  
144 Law 80 of 2021 which reduced city fines and fees where appropriate, especially in  
145 cases where the public is not in immediate danger. In those cases, cure periods are  
146 the more appropriate course of action, and we would advocate for Local Law 64 also  
147 being enforced in education-focused manner. Thank you so much. I'd be happy to  
148 answer any questions, but those are, those are our main concerns with the  
149 enforcement moving forward.

150                   MR. DRIVER: Alright. Well thank you for sharing that Kathleen. I don't  
151 think we have any questions right now, but we do have your testimony. Again, if you  
152 have a longer version, you can feel free to e-mail that to us so we can incorporate that  
153 into the record as well. Great.

154                   Next up we have Josh Spodeck [phonetic].

155                   MR. JOSH SPODECK: Hi, I hope everyone can hear me okay. So I, I  
156 host This Sustainable Life podcast which is a pretty prominent podcast in  
157 sustainability. I'd have Eric Adams [phonetic], Kathleen Garcia [phonetic], and a bunch  
158 of bra-, and a bunch of other New York City and New York State politicians on the  
159 podcast. I'm also a New York City resident since the 1980s and I've seen the ebbs and  
160 flows of litter in, in the streets of the City, and this is -- I -- and on top of that I'm pretty  
161 active myself, I pick up litter every day, and I have since 2017. And the explosion of  
162 plastic and litter since the pandemic is, is, is historic, and while there have been times  
163 when there have been litter in the past it's never been this plastic stuff that we'll  
164 endure for hundreds to maybe thousands of years and being poisonous the whole

165 time. And most of it is packaging for food, and you know, just the other day France  
166 banned plast-, I mean many countries and cities have banned plastic outright of aa  
167 single-use stuff. New York City is way behind in terms of global precedent. We're just  
168 lagging, and we're paying a price for it in terms of our health, in terms of rats, and  
169 things like that. I don't know if I -- can I share a screen?

170 MR. DRIVER: Screensharing will not really be incorporated --

171 MR. SPODECK: No?

172 MR. DRIVER: -- into the record here. Sorry.

173 MR. SPODECK: Okay. In -- and I, I submitted some testimony on the  
174 website before with three links to pages of images of what our city streets look like  
175 today, and it is disgusting. It's unhealthy. It smells. And to suggest that restaurants  
176 can't do what humans have done for centuries to thousands of years of drink coffee  
177 without plastic is ludicrous. Of course, we can. And the most effective way to get  
178 them to do it is to say we have to do it, and we have to do what we've done for  
179 hundreds to thousands of years. So as a, as a member of the media, as a New York City  
180 resident, as an active person in trying to clean up this mess, this is not a sanitation  
181 issue by the way. There's no sanitation iss-, department in the world that can keep up  
182 with the amount of plastic coming in. This is a too much supply issue, and it's  
183 unnecessary supply, and it's unhealthy. So I wanted to make sure that we're on record  
184 and I hope that we can ban the stuff and make the transition much faster -- oh, I do  
185 want to add one more thing. That about 20 years ago when the City was going to ban  
186 cigarettes, people said if we ban cigarettes, it's bad for business, people want to  
187 smoke when they drink, and they want to drink after work and if they can't do it here,  
188 they'll just go across the river to New Jersey. And two and half years later, New Jersey

189 had to ban cigarettes because people came into to Manhattan to avoid the smoke in  
190 New Jersey. They didn't know what clean looked like, but when did they kn-, when  
191 they experienced it, they said this is what we prefer. And we've lost a sense of what a  
192 ci-, clean streets could look like, but this is going to be good for business. People will  
193 come here more and spend more time and enjoy more healthy food after the ban and  
194 after we decrease the supply of this litter. Thank you.

195 MR. DRIVER: Okay. Thank you so much, Josh.

196 Really appreciate it.

197 MR. SPODECK: Mm-hmm.

198 MR. DRIVER: So okay. That's everyone who I  
199 have on my list in terms of testimony. If you are on this call, and you would like to  
200 offer testimony, and I haven't had you sort of my list to go, oh, wait, we have someone  
201 else in the waiting room. Let in. So let me just -- Mike Ellsie [phonetic], this is  
202 Charlie from the Department of Consumer and Worker Protection. I'm wondering if  
203 you're here to just listen in or here to offer testimony, if you could let me know if  
204 you're interested in offering testimony, you can kind of go straight away.

205 If we don't have anyone who is going to  
206 offer further testimony at this time, for the rec-, just so everyone knows the way this  
207 works is I will leave the zoom open for the next 40 or so minutes until, until we hit  
208 noon to see if anyone else comes through late intending to offer any testimony. So  
209 you can feel free to, you know, camera off, and just wait here. If you've offered  
210 testimony and you know, you, you, have something to go to or aren't interested in  
211 seeing if there's any more testimony available, you can feel free to leave the zoom call,  
212 but that's basically how this would proceed.

213 MS. GOLDSMITH: Thank you so much, Charlie.

214 MR. SPODECK: Thank you.

215 MR. DRIVER: Yeah, my pleasure. Thank you

216 all for coming.

217 MS. RILEY: Thank you all.

218 MS. GOLDSMITH: Thank you.

219 MR. DRIVER: Okay, folks. It's now 12:00

220 p.m. So we're going to be ending this hearing. I didn't have anyone else come

221 through who was interested in offering more testimony. So thank you for attending

222 for those of you who testified, thank you for testifying. We're going to take all of this

223 back. We're going to review the testimony and the, the opinions, and we will

224 promulgate our finalized rule at some point in the future taking everything into

225 account. So have, have a great rest, rest of your Wednesday and thanks again for

226 attending.

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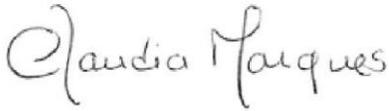
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CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Public Hearing of the Department of Consumer and Worker Protection on the Proposed Rules to Implement Local Law 64 of 2021 on October 13, 2021 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

Date: November 19, 2021



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GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018

**Geneva Worldwide, Inc.**  
256 West 38<sup>th</sup> Street, 10<sup>th</sup> Floor, New York, NY 10018