

## **Environmental Control Board**

### **Notice of Promulgation of Rule**

**NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the** Environmental Control Board (ECB) in accordance with Sections 1043 and 1049-a of the New York City Charter and Sections 10-169, 16-118, and 16-120 of the New York City Administrative Code. The ECB has amended its Sanitation Penalty Schedule, which is found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. It contains penalties for notices of violation issued by the New York City Department of Sanitation (DSNY). The rule was published in The City Record on March 13, 2015 and a public hearing was held on April 14, 2015.

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

ECB has amended its Sanitation Penalty Schedule to create penalties for violations of Local Law 67 of 2014 (“Local Law 67”), which relates to publicly accessible collection bins (typically used for clothing donations). ECB has also created a penalty for violations of 16 RCNY 1-04.2 which prohibits the placement of electronic waste out for solid waste or recycling collection.

The Environmental Control Board (“ECB”) held a public hearing on April 14, 2015 regarding amendments to its Sanitation Penalty Schedule and amendments to ECB’s Department of Buildings Penalty Schedule. The Sanitation Penalty Schedule is found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. One representative from the NYC Department of Buildings (“DOB”) and two (2) individuals from the public attended the April 14, 2015 public hearing. No written comments or oral testimony concerning this Proposed Rule were received at the April 14, 2015 public hearing.

#### **Publicly Accessible Collection Bins**

On December 14, 2014, Intro. Number 409-A of 2014 became a law, designated as Local Law 67, effective March 14, 2015. Local Law 67 relates to the regulation of publicly accessible collection bins, which are prohibited from being placed on City property, property maintained by the City, or any public sidewalk or roadway. Bins may be placed on private property if the property owner or the property owner’s designated agent provides written permission to the bin owner. Owners of publicly accessible collection bins that operate lawfully on private property are required to place their names, addresses, and telephone numbers on their bins.

Local Law 67, effective on March 14, 2015, authorizes DSNY to immediately remove any publicly accessible collection bin placed on public property and to issue violations against owners of illegally placed collection bins. Further, owners of bins that are lawfully placed on private property will be required to register and file an annual report with DSNY. Additionally, the bin owner and the private property owner will each be responsible for maintaining the bin in a clean and neat condition. Bin owners who fail to comply with these requirements will be liable for civil penalties.

The new law defines a subsequent offense as a violation issued to the same respondent within any eighteen-month period. The rule reflects this definition.

## Electronic Waste

As of January 1, 2015, the New York State Electronic Equipment Recycling and Reuse Act (Chapter 99 of the laws of 2010, codified as Title 26 of Article 27 of the Environmental Conservation Law) prohibits disposal of electronic waste as solid waste in the State of New York. This act prohibits electronic waste from being placed or disposed of in any solid waste management facility, or being placed out for collection for disposal at a solid waste management facility or hazardous waste management facility in the State of New York. Specifically, the law means that residents and businesses may no longer place electronic waste, such as computers and cell phones, for example, out for collection with either regular waste or with recyclables.

Pursuant to section 753 of the New York City Charter, DSNY is responsible for the functions and operations of waste disposal within the City, and has authority under sections 16-118 and 16-120 of the New York City Administrative Code to issue violations to persons who improperly dispose of solid waste. In response to the new law, DSNY promulgated a new rule, 16 RCNY 1-04.2, to prohibit electronic waste from being set out for solid waste or recycling collection in New York City.

ECB's authority for these rules is found in Sections 1043(a) and 1049-a of the New York City Charter and Sections 10-169, 16-118, and 16-120 of the New York City Administrative Code.

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New material is underlined.

[Deleted material is in brackets.]

**§ 1. The Environmental Control Board has amended its Sanitation Penalty Schedule found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by amending and revising the headnote appearing at “\*\*\*\*For section 16-119, a repeat violation is:” to read as follows:**

\*\*\*\*For sections 16-119 and 10-169, a repeat violation is:

- A violation by the same respondent
- Of [section 16-119] the same section of law as the previous violation
- With a date of occurrence within 18 months of the date of occurrence of the previous violation

**§ 2. The Environmental Control Board has amended its Sanitation Penalty Schedule found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding entries to that schedule just below the entry for Section 10-120, “Defacement of City handbill/notice,” to read as follows:**

Section of Law	Description	Offense	Penalty	Default
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<u>10-169(b)(1)****</u>	<u>Failure to display owner information on publicly accessible collection bin</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(2)****</u>	<u>Placement of publicly accessible collection bin on city property, property maintained by the city or public sidewalk or roadway</u>	<u>1<sup>st</sup></u>	<u>250</u>	<u>250</u>
		<u>2<sup>nd</sup></u>	<u>500</u>	<u>500</u>
<u>10-169(b)(2)****</u>	<u>Attaching or enclosing publicly accessible collection bin to city property, property maintained by the city or on public sidewalk or roadway</u>	<u>1<sup>st</sup></u>	<u>500</u>	<u>500</u>
		<u>2<sup>nd</sup></u>	<u>1000</u>	<u>1000</u>
<u>10-169(b)(4)****</u>	<u>Failure to maintain publicly accessible collection bin in a clean and neat condition (Property owner)</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(4)****</u>	<u>Failure to maintain publicly accessible collection bin in a clean and neat condition (Bin Owner)</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(5)****</u>	<u>Failure to register publicly accessible</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>

	<u>collection bin with DSNY</u>	<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>
<u>10-169(b)(5)****</u>	<u>Submitting an annual report with false or misleading information or failure to submit an annual report to DSNY</u>	<u>1<sup>st</sup></u>	<u>50</u>	<u>50</u>
		<u>2<sup>nd</sup></u>	<u>100</u>	<u>100</u>

**§ 3. The Environmental Control Board has amended its Sanitation Penalty Schedule found in Section 3-122 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York by adding an entry in that schedule just below the entry for 16 RCNY 1-04, “Improper disposal of regulated household waste,” to read as follows:**

<b>Section of Law</b>	<b>Violation Description</b>	<b>Offense</b>	<b>Penalty</b>	<b>Default</b>
<u>16 RCNY 1-04.2</u>	<u>Improper disposal of electronic waste</u>		<u>\$100</u>	<u>\$100</u>