

New York City Department of Sanitation

Notice of Adoption of Final Rule Relating to Source Separation of Yard Waste and Commingling of Yard Waste and Organic Waste

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 sections 16-305 and 16-308 of the New York City Administrative Code, that DSNY adopts the following rule relating to source separation of yard waste and commingling of yard waste and organic waste. DSNY published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on March 27, 2023. On April 27, 2023, DSNY held a public hearing on the proposed rule.

Statement of Basis and Purpose

Organic waste, including yard waste, food scraps, and food-soiled paper, makes up 34 percent of all residential waste in New York City. This material is readily recyclable – either into nutrient rich soil additive via composting or into renewable energy via anaerobic digestion. Moreover, this material, the most putrescible portion of New York City’s curbside waste stream, attracts rats and other vermin. Diverting organic waste from the refuse stream can fight rats, divert waste from landfills, reduce greenhouse gas emissions, and create beneficial products that enliven our parks and gardens or power homes with renewable energy.

When sent to landfills, organic waste, including yard waste, decomposes to create methane gas, a powerful greenhouse gas more than 20 times more potent than carbon dioxide. Methane emissions from landfills related to DSNY-collected waste comprise nearly 4 percent of New York City’s overall greenhouse gas emissions inventory. Diverting this waste from landfills is an essential part of the City’s efforts to reduce greenhouse gas emissions by 80 percent by 2050.

For every successful organic waste diversion program in the United States, mandatory yard waste diversion has been the first required step and necessary prerequisite. Yard waste is generated separately from other types of recyclable and non-recyclable waste – in the yard or garden rather than in the home. It is generally already segregated into separate containers or bags. Requiring mandatory separation of yard waste is therefore straightforward; residents need not change their behavior other than to set yard waste out on the designated recycling day.

Local Law 19 of 1989 and Local Law 40 of 2010, the two laws that make up the foundation of New York City’s recycling laws, along with their intervening and subsequent amendments, require the Department of Sanitation (DSNY) to establish a mandatory program for the collection of yard waste from designated districts in New York City. This rule would fulfill that requirement and establish procedures for the proper setout of yard waste for collection by DSNY.

While local law does not currently require the separation of all organic waste, such waste can also be composted or digested alongside yard waste. As such, this rule would allow for other types of organic waste, including food scraps and food-soiled paper products, to be commingled with yard waste for collection.

In October 2022, DSNY rolled out curbside composting to every resident in Queens, the first universal, borough-wide composting program in New York City's history. In just 12 weeks, this program diverted nearly 13 million pounds of organic waste. This program diverted three times more per district than the legacy opt-in organics program started in 2021, and it did so at one-third the cost of previous curbside composting programs.

In February 2023, based on the early success of the Queens program, the City announced a detailed timeline for the rollout of universal curbside composting program for every New York City resident. That plan begins with the resumption of compost collection in Queens on March 27, 2023, and continues through the addition of the borough of Manhattan on October 7, 2024, at which point every New York City resident will have curbside composting service.

This rule follows upon that announcement and is phased in with the expansion of collection service on a borough-by-borough basis. In particular, yard waste separation requirements will phase in as follows:

- Queens: upon the effective date of the rule
- Brooklyn: October 2, 2023
- Bronx and Staten Island: March 25, 2024
- Manhattan: October 7, 2024

DSNY intends to allow for a three-month education and warning period in each borough following the effective date of mandatory organics separation prior to the issuance of any summonses pursuant to this requirement.

Specifically, this rule amends Section 1-08 of Title 16 of the Rules of the City of New York to require source separation of yard waste, pursuant to sections 16-305 and 16-308 of the New York City Administrative Code, *i.e.*, that yard waste must be put out separately from other waste for collection. Such separation is required from March 1 to July 31 and from September 1 to November 30 of each year, the period specified in section 16-308 of the Administrative Code.

This rule further specifies that, on a voluntary basis, organic waste may be set out and collected commingled with yard waste. (The composting of organic waste aside from yard waste is voluntary because there is no local law at the moment that requires the mandatory composting of such waste.) In addition, the rule provides specifications for containers and bags for the collection of yard waste and for the collection of yard waste commingled with organic waste.

This rule also requires that owners or managers of buildings with four or more residential units designate space for the storage of yard waste and provide appropriate containers for the storage of such materials. While this rule does not require that owners or managers of buildings with four or more residential units provide for the separation and storage of organic waste other than yard waste, DSNY encourages owners and managers of such properties to provide adequate and appropriate storage areas and containers for all organic waste, including food scraps and food-soiled paper products.

Finally, this rule makes technical revisions to align with recently adopted rules regarding receptacles for waste set out in section 1-02 of this title and to remove unnecessary and hard-to-enforce requirements regarding labeling and post-consumer recycled content in containers and plastic bags for designated recyclable materials.

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 1-08 of Title 16 of the Rules of the City of New York is amended to read as follows:

§ 1-08 Residential Collection Service of Designated Recyclable Materials.

(a) *Designated recyclable materials.* Pursuant to §16-305 of the New York City Administrative Code the following materials are designated as recyclable materials for purposes of this section:

(1) metal cans, metal items, aluminum foil, aluminum foil products, containers made of glass, beverage cartons, and rigid plastics (collectively referred to as designated recyclable metal, glass and plastic);

(2) newspaper, magazines, catalogs, phone books, mixed paper and corrugated cardboard (collectively referred to as designated recyclable paper); and

(3) organic waste, including yard waste.

This subdivision notwithstanding, designated recyclable paper and designated recyclable metal, glass and plastic items that are substantially soiled with food, paint or some other contaminating material shall not be considered a designated recyclable material.

(b) *Implementation.*

(1) The requirement that a specific designated recyclable material be source separated shall be scheduled and implemented by the Department on a citywide basis.

(2) Notwithstanding paragraph (1) of this subdivision, the source separation of yard waste shall be required from March first to July thirty-first and from September first to November thirtieth in districts designated by the Commissioner on the timetable set forth in subdivision (k) of this section.

(3) Notwithstanding paragraph (1) of this subdivision, the source separation of organic waste other than yard waste shall be on a voluntary basis; however, organic waste may be commingled with yard waste pursuant to paragraph (2) of this subdivision.

(c) All designated recyclable materials [shall] must be prepared and placed out for collection in the manner prescribed in this section on the collection day(s) that the Commissioner, in his/her discretion, designates for recycling in each recycling district.

(d) *Determination of mechanized collection service.* The Commissioner, after consultation with the owner, net lessee or person-in-charge of a residential building, may require that

designated recyclable materials be collected from such building through mechanized collection service. Factors to be considered in imposing such a requirement include, but are not limited to:

(1) availability of space within the building or behind the property line for the storage of containers for mechanized collection;

(2) feasibility of Department access to such containers; and

(3) whether the quantity of designated recyclable materials generated is sufficient to warrant mechanized collection, as determined by the Commissioner. Every building shall receive curbside collection service for designated recyclable materials unless a determination pursuant to this subdivision has been made to collect such materials via mechanized collection service and such service has commenced.

(e) *Recycling containers.*

(1) *Rigid containers for curbside recycling collection service:*

(i) *Rigid containers for designated recyclable paper:* Designated recyclable paper may be placed out for curbside collection in rigid containers provided such containers are: (A) a minimum of 18 and a maximum of [32] 55 gallons in capacity; (B) covered by a lid; [(C) in compliance with subparagraph (2)(iv) of this subdivision; and (D)] and (C) clearly labeled [at least two times] with the words "Recycling: Mixed Paper", or some variation thereof, in letters no less than four inches in height. Alternatively, Department [Mixed Paper Recycling Program Decals] decals may be used to label containers. [Labels shall appear twice on the container, on opposite sides.] The Department recommends, but does not require, that rigid containers for curbside recycling collection of designated recyclable paper be green in color[, however, such containers are not required to be green].

(ii) *Rigid containers for designated recyclable metal, glass and plastic:* Designated recyclable metal, glass and plastic may be placed out for curbside collection in rigid containers provided such containers are: (A) a minimum of 18 and a maximum of [32] 55 gallons in capacity; (B) covered by a lid; [(C) in compliance with subparagraph (2)(iv) of this subdivision; and (D)] and (C) clearly labeled [at least two times] with the words "Recycling: Metal, Glass and Plastic", or some variation thereof, in letters no less than four inches in height. Alternatively, Department [Metal, Glass and Plastic Recycling Program Decals] decals may be used to label containers. [Labels shall appear twice on the container, on opposite sides.] The Department recommends, but does not require, that rigid containers for curbside recycling collection of designated recyclable metal, glass and plastic be blue in color[, however, such containers are not required to be blue].

(iii) *Rigid containers for designated yard waste:* Designated yard waste may be placed out for curbside collection in rigid containers, provided that such containers are: (A) a minimum of 13 and a maximum of 55 gallons in capacity and (B) clearly labeled with the words "Yard Waste" or some variation thereof, in letters no less than four inches in height. Alternatively, Department decals may be used to label containers.

(iv) *Rigid containers for designated organic waste:* Designated organic waste may be placed out for curbside collection in containers that are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) covered by a tight-fitting lid; and (C) clearly labeled with the words "Organic Waste" or some variation thereof, in letters no less than four inches in height.

Alternatively, Department decals may be used to label containers. Containers for organic waste may be lined with a clear plastic bag.

(2) *Plastic bags for curbside collection service:*

(i) *Plastic bags for designated recyclable paper:* Designated recyclable paper consisting of mixed paper may be placed out for curbside collection in plastic bags, provided such bags are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) clear and not colored; and (C) constructed of low density polyethylene or linear low density polyethylene; and (D) comply with subparagraph (2)(iii) of this subdivision. All other recyclable paper shall be placed out for curbside collection as specified in subparagraph (h)(2)(i) of this section].

(ii) *Plastic bags for designated recyclable metal, glass and plastic:* Designated recyclable metal, glass and plastic may be placed out for curbside collection in plastic bags, provided such bags are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) clear and not colored; and (C) constructed of low density polyethylene or linear low density polyethylene; and (D) comply with subparagraph (2)(iii) of this subdivision. All other recyclable paper shall be placed out for curbside collection as specified in subparagraph (h)(2)(i) of this section].

[(iii) Rigid recycling containers and clear plastic recycling bags for designated recyclable paper and designated recyclable metal, glass and plastic, [shall] must be manufactured by a manufacturer that, on an annual basis, uses at least 25% post-consumer material overall in its production of such rigid containers or bags. For the purposes of this subparagraph, “post-consumer material” shall have the same meaning as defined in subdivision (g) of §16-303 of the Administrative Code. Any written statement from the manufacturer of rigid containers or plastic bags that it has complied with the post-consumer content requirements for such containers or bags shall relieve the user of such containers or bags from liability for deviation from post-consumer content requirements.]

(3) *Containers for mechanized collection service of designated recyclable paper:* Containers for mechanized collection [shall] must be capable of being serviced by Department collection vehicles. Containers used for mechanized collection of designated recyclable paper [shall] must be white in color. Containers [shall] must be clearly labeled to indicate designated recyclable paper may be properly placed therein. In conjunction with its determination to provide mechanized collection service under subdivision (d) of this section, the Department may supply additional specifications for containers for mechanized collection service, and shall provide information as to where containers that comply with Department specifications may be purchased.

(4) Paper bags for designated yard waste: Designated yard waste may be placed in two-ply wet strength stock (fifty pounds each ply) leak-proof paper bags. Such bags must not exceed 16 inches in length by 12 inches in width by 35 inches in height, and must have a minimum capacity of 30 gallons and a maximum capacity of 55 gallons.

(f) *Responsibilities and pre-collection recycling procedures for owners, net lessees or persons-in-charge of residential buildings containing four or more dwelling units – curbside or mechanized collection service.*

(1) *Notice/Resident Education.* The owner, net lessee, or person-in-charge of a residential building containing four or more dwelling units [shall] must be responsible for notifying the residents of such building of the requirements of the New York City Recycling Law

(New York City Administrative Code, §§ 16-301 et seq.) by, at a minimum, posting and maintaining one or more signs in the storage area(s) required by paragraph (2) of this subdivision, and in other areas as required by this paragraph.

- (i) Posted signs [shall] must set forth what materials are required to be source separated, the location of the building's designated recycling area where source separated recyclables will be stored, and how to dispose of such materials in that building, including the rinsing requirement as set forth in paragraph (g)(3) of this section. In buildings receiving curbside collection service in which residents are required to tie newspapers, magazines, catalogs, phone books or corrugated cardboard into bundles as set forth in subparagraph (h)(2)(i) of this section, such requirement [shall] must be included on the posted sign. Posted signs [shall] must be at least 8 1/2 by 11 inches in size and [shall] must use lettering of a conspicuous size.
- (ii) The owner or person-in-charge of such residential building [shall] must also be responsible for making available to each resident at the inception of a lease a department-issued guide to recycling. Such recycling guide may be obtained from the department in print form or downloaded from the department's website. [In the event that] if the area designated for the collection and storage of designated recyclable materials is other than the regular solid waste collection area, the owner, net lessee or person-in-charge of the building [shall] must post a sign in the regular solid waste collection area informing residents of where to bring such materials.
- (iii) In buildings in which the designated area for collection of recyclables is outside of the building, in lieu of posting a sign in such outside storage area, the owner, net lessee or person-in-charge of the building may post a sign or signs containing information required by this subdivision near the entrance to, or resident mailbox area(s) for, such building, or in some other public area in the building routinely visited by all building residents.
- (iv) In buildings in which designated recyclable materials are collected at the back entrance of individual dwelling units or at locations other than the designated storage area, the owner, net lessee or person-in-charge [shall] must post a sign containing the information required by this subdivision at each such location.
- (v) In buildings in which designated recyclable materials are collected at the front entrance of individual dwelling units, the owner, net lessee or person-in-charge [shall] must conspicuously post on each floor a sign containing the information required by this subdivision.

(2) *Proper storage.* The owner, net lessee, or person-in-charge of a residential building containing four or more dwelling units [shall] must, in accordance with all applicable laws, codes and rules and regulations:

- (i) designate a storage area or areas in the building that is reasonably accessible to building residents for the pre-collection storage of designated recyclable materials. If reasonably accessible storage space is not available in the building, and such space is available behind the building's property line, such space behind the property line may be designated for the pre-collection storage of designated recyclable materials;

(ii) maintain the storage area(s) and store designated recyclable materials so as not to create a nuisance or sanitary problem; and

(iii) provide a sufficient number of recycling containers in each storage area so as to prevent spillover from containers and to avoid the improper disposal of designated recyclable materials. Such recycling containers [shall] must be clearly labeled with letters of a conspicuous size to indicate what designated recyclable materials may be properly placed therein, but are not required to comply with subdivision (e) of this section provided such containers are not placed at the curbside for collection. Storage areas need not be accessible to building residents in buildings in which designated recyclable materials are collected at individual dwelling units or at accessible locations other than the designated storage area.

(3) Separation of designated yard waste or organic waste. The owner, net lessee, or person-in-charge of a residential building containing four or more dwelling units must, in accordance with all applicable laws, codes and rules and regulations:

(i) designate a storage area or areas in the building that is reasonably accessible to building residents for the pre-collection storage of yard waste or organic waste. If reasonably accessible storage space is not available in the building, and such space is available behind the building's property line, such space behind the property line may be designated for the pre-collection storage of designated recyclable materials;

(ii) maintain the storage area(s) and store yard waste or organic waste so as not to create a nuisance or sanitary problem; and

(iii) provide a sufficient number of containers in each storage area so as to prevent spillover from containers and to avoid the improper disposal of yard waste or organic waste. Such recycling containers must be clearly labeled with letters of a conspicuous size to indicate that yard waste or organic waste may be properly placed therein, but are not required to comply with subdivision (e) of this section provided such containers are not placed at the curbside for collection. Storage areas need not be accessible to building residents in buildings in which designated recyclable materials are collected at individual dwelling units or at accessible locations other than the designated storage area.

(g) Responsibilities and pre-collection recycling procedures for owners, residents, net lessees and persons-in-charge of residential buildings, mixed-use buildings, and residential buildings receiving partial private carter collection service – Curbside or mechanized collection service: Owners, residents, net lessees and persons-in-charge of residential buildings, mixed-use buildings, and residential buildings receiving partial private carter collection service [shall] must:

(1) separate from other materials designated recyclable materials that are required to be recycled and [shall] must place such separated materials in the appropriate containers or as otherwise directed by the owner, net lessee or person-in-charge of such building in accordance with subdivision (f) of this section;

(2) place only designated recyclable materials in recycling containers; and

(3) rinse and/or clean food and/or residue from metal cans, glass containers, beverage cartons, rigid plastics, and aluminum foil and aluminum foil products prior to the placement of such materials in the appropriate containers. In addition, in buildings receiving curbside

collection service for designated recyclable paper, owners, residents, net lessees and persons-in-charge [shall] must tie newspapers, magazines, catalogs, phone books and corrugated cardboard into bundles not exceeding eighteen inches in height, when notified of such requirement as set forth in paragraph (f)(1) of this section.

(h) *Collection procedures for designated recyclable and other materials.* The owner, resident, net lessee, or person-in-charge of a residential building [shall] must be responsible for the following. The responsibilities set forth in this subdivision shall also apply to residents of buildings containing three dwelling units or less in which as a matter of regular practice the resident is responsible for bringing his/her solid waste to curbside for collection:

(1) *Designated recyclable metal, glass and plastic:*

(i) *Curbside collection service.* Designated recyclable metal, glass and plastic (other than bulk metal or bulk plastic) that is collected for recycling via curbside recycling collection service [shall] must be placed at curbside in containers or plastic bags complying with subparagraphs (e)(1)(ii) or (e)(2)(ii) of this section on the day(s) specified for recycling collection by the Commissioner. Bulk metal and bulk plastic [shall] must be placed next to such containers on such days.

(ii) *Mechanized collection service.* Owners, net lessees or persons-in-charge [shall] must call their district garage to make arrangements for recycling collection of bulk metal and bulk plastic.

(2) *Designated recyclable paper:*

(i) *Curbside collection service.* Newspaper, magazines, catalogs, phone books and corrugated cardboard that are collected via curbside collection service [shall] must be placed out for collection in securely tied bundles. Bundles [shall] must not exceed eighteen inches in height. Mixed paper required to be recycled [shall] must be placed out for curbside collection in rigid containers or plastic bags complying with subparagraphs (e)(1)(i) or (e)(2)(i) of this section. Other designated recyclable paper (i.e., newspapers, magazines, phone books, and corrugated cardboard) [shall] must be placed out for curbside collection in such rigid containers or plastic bags or in securely tied bundles, which [shall] must not exceed eighteen inches in height. Corrugated cardboard [shall] must be broken into small pieces (no larger than 9 inches by 11 inches) before being placed into rigid containers or plastic bags.

(ii) *Mechanized collection service.* Designated recyclable paper that is collected via mechanized collection service [shall] must be placed in containers complying with paragraph (e)(3) of this section. Corrugated cardboard [shall] must be collapsed and placed into containers in a manner which will enable such material to fall freely from containers during collection. On the day of collection, containers [shall] must be placed in an area determined by the Commissioner to be accessible to Department vehicles.

(3) [*Yard*] *Designated yard waste [material] and organic waste.* [For the purposes of this subparagraph, "yard waste" shall be as defined in §16-303 of the Administrative Code. Yard waste material, which the Department collects under its seasonal collection programs through curbside collection service in districts designated by the Commissioner to receive such service, shall be placed out for curbside collection on the day(s) specified for yard waste collection by the Commissioner in either of the following:

(i) biodegradable, two-ply wet strength stock (fifty pounds each ply) leak-proof paper bags. Such bags shall not exceed 16 inches in length by 12 inches in width by 35 inches in height, and shall have a minimum capacity of 30 gallons and a maximum capacity of 55 gallons. Any written statement from the manufacturer of paper bags that it has complied with the biodegradability requirements for such bags shall relieve the user of such bags from liability for deviation from the biodegradability requirements; or

(ii) rigid containers, provided that such containers are unlined, and are a minimum of 20 and a maximum of 32 gallons in capacity.] On day(s) specified for recycling collection by the Commissioner, designated yard waste that is collected via curbside collection must be placed at curbside in containers or paper bags complying with subparagraph (e)(1)(iii) or paragraph (e)(4) of this section or be commingled with designated organic waste in containers complying with subparagraph (e)(1)(iv) of this section.

(4) Materials that are not required to be source separated for recycling [shall] must be removed from both curbside and mechanized collection recycling containers and bags prior to recycling collection day.

(5) *Designated recyclable materials.*

(i) Designated recyclable materials that have been source separated as required by subdivision (g) of this section [shall] must not be placed out for collection in the same container as solid waste or organic waste.

(ii) Notwithstanding subparagraph (i) of this paragraph, designated yard waste may be placed out for collection in the same container as designated organic waste in accordance with subparagraph (h)(3)(ii) of this section.

(6) The owner of any residential building or mixed use building who has arranged for private carter removal service of all or some recyclables generated at such building pursuant to section [16-118(7)(b)] 16-461 of the administrative code of the city of New York, and seeks to reinstate department collection service for such recyclables at the building, must notify the department's Collection Office in writing requesting the restoration of department recycling collection service to the building not less than sixty days prior to the discontinuation of the building's private carter removal service for such recyclables.

(i) *Compliance:* Residential buildings of four or more dwelling units:

(1) Where the Commissioner, in his/her discretion, determines that the amount of designated recyclable materials placed out for collection by a residential building containing four or more dwelling units remains significantly less than what can reasonably be expected, the owner, net lessee, person-in-charge or residents of such building [shall be required to] must use clear bags, or such other means of disposal as the Commissioner deems appropriate, for purposes of monitoring compliance with the New York City Recycling Law (New York City Administrative Code, §§ 16-301 et seq.) to dispose of solid waste other than designated recyclable materials.

(2) Where the Commissioner determines that the owner, net lessee, or person-in-charge of the building has complied with obligations set forth in subdivision (f) of this section and the amount of designated recyclable material placed out for collection remains significantly less than what can reasonably be expected from such building, then, upon request of the owner, net

lessee, or person-in-charge, the Commissioner shall, in consultation with the owner, net lessee or person-in-charge, develop a schedule to conduct random inspections in the building to facilitate compliance with this section by residents of such building. Such random inspections shall occur at a reasonable time and may include, but are not limited to, inspections of the solid waste placed out for collection in transparent bags set forth in paragraph (1) of this subdivision. Nothing herein shall limit the Commissioner's authority pursuant to §16-305(g) of the New York City Administrative Code to conduct lawful random inspections at reasonable times without notice to ensure compliance by the owner, net lessee, person-in-charge or resident of such building.

(j) *Enforcement:* Any owner, net lessee, person-in-charge or resident who violates any provision of this section shall be liable for civil penalties as set forth in §16-324 of the New York City Administrative Code.

(k) *Designation of districts for the required source separation of designated yard waste.* Pursuant to subdivision (b) of section 16-308 of the Administrative Code, the commissioner designates the following districts that will be required to source separate yard waste on or after the dates specified in this section:

- (1) all districts in the borough of Queens on the effective date of this rule.
- (2) all districts in the borough of Brooklyn on October 2, 2023.
- (3) all districts in the boroughs of Staten Island and the Bronx on March 25, 2024.
- (4) all districts in the borough of Manhattan on October 7, 2024.