

New York City Department of Sanitation
Notice of Adoption of Final Rule Relating to Entities Engaging in Cleaning Services

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(e) of the New York City Administrative Code, that DSNY adopts the following rule relating to entities engaging in cleaning services. DSNY published a Notice of Opportunity to Comment on the proposed rule in the *City Record* on December 30, 2024. On February 10, 2025, DSNY held a public hearing on the proposed rule.

Statement of Basis and Purpose

Section 16-120(e)(2) of the New York City Administrative Code prohibits the placement of household or commercial refuse upon any sidewalk, street, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned, except in accordance with rules of the department relating to collection.

The purpose of this rule is to clarify that any business improvement district, merchant association, neighborhood association, or other entity that performs or causes others to perform cleaning services such as manual sweeping and cleaning of sidewalks, public plazas, streets, curbs and gutters, or emptying of public litter baskets, for the purpose of supporting local businesses or communities, may not place any amount of refuse or recycling next to or against any public litter basket, or at any other location described in Section 16-120(e)(2) of the New York City Administrative Code, except in accordance with rules of the Department relating to collection. The rule also requires that such materials be placed out for collection by the Department in rigid receptacles with tight-fitting lids that do not exceed fifty-five gallons in size, unless an alternative receptacle or set-out method is approved by the Department. An entity, for purposes of this rule, shall mean any non-governmental organization that performs or causes others to perform cleaning services such as manual sweeping and cleaning of sidewalks, public plazas, streets, curbs and gutters, or emptying of public litter baskets, for the purpose of supporting local businesses or communities.

Any business improvement district, merchant association, neighborhood association, or other entity violating the prohibition of placing any amount of refuse or recycling out in bags for

Department collection next to or against any public litter basket, or for any other reason at any other location described in Section 16-120(e)(2) of the Administrative Code, shall be subject to the civil penalties for violations of §16-120(e)(2) of the Administrative Code.

This rule was drafted to minimize compliance costs for the regulated communities by offering a variety of compliance options. First, the rule requires them to utilize containers that are no different than the containers that small businesses and residential buildings containing 9 or fewer units are currently required to use. Additionally, the Department offers the opportunity to utilize alternative receptacles approved by the Department if an organization subject to the rule wishes to utilize an alternative receptacle.

Bags of waste placed out on the sidewalk attract rats and vermin. These changes align with the City's commitment to cleaning up New York City streets and reducing food sources for rats and align with the City's 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.

DSNY engaged with members of the regulated community during the public comment period to discuss their operational concerns regarding how they may be able to containerize waste. DSNY considered all 115 written and oral comments received in relation to this rule. Based on many of these comments, DSNY has added clarifying language relating to how waste may be set out. Such waste must be set out in rigid receptacles with tight fitting lids that do not exceed 55 gallons in size, unless a different containerization method or alternative set-out method is approved by the Department. DSNY additionally added examples of some alternative containerization and set-out methods.

Other comments fell into several categories:

Effective Date

Commenters requested that the effective date of the rule be moved beyond August 2025, for a variety of reasons such as budget availability and time to plan for implementation.

Cost Issues

Commenters described the cost of containerization as being prohibitively high, focusing largely on the cost of large on-street containers and accompanying staffing costs.

Siting Issues

Commenters raised concerns with not having appropriate sites for containers in the districts they serve, and administrative hurdles with coordinating with the Department and Department of Transportation on siting.

Community Groups

Many community group members noted their lack of a budget, and requested their groups be exempted from the rule.

The rationale for not making further changes, by category, is outlined as follows:

Effective Date:

- This rule will take effect August 1, 2025, but in consideration of the comments expressing feasibility concerns about timeline, DSNY will not issue a notice of violation if it determines in its discretion that compliance by the affected parties is not feasible by such date.
- DSNY has worked with many BIDs to keep trash bags off the street since at least 2021, when DSNY announced the Clean Curbs program.
- Since then, over 20 BIDs have voluntarily containerized the waste collected from public litter baskets.
- As of March 2024, all 200,000 businesses in NYC have been required to use secure, lidded bins to set out refuse, keeping 20 million pounds of garbage off our streets every day.
- As of November 2024, all single-family homes and residential buildings with up to 9 units are also required to use secure lidded bins to set out refuse.
- With the commercial and 1-9 unit residential mandates in effect, 70% of NYC trash is now in containers. This makes the remaining trash bags, particularly along commercial corridors, more noticeable and out of step with the City's new status quo. This can hurt business development and quality of life.
- DSNY publicly announced the intention to pursue rulemaking to address this trash loophole at a November 2024 City Council hearing and introduced the draft rule at the end of December.

- The August 2025 date was specifically chosen to provide ample time for BIDs not already in compliance to meet with DSNY, review options, and implement operational changes ahead of the effective date.
- The rule's effective date was intentionally chosen to provide 8 full months notice from the date the rule was initially proposed for BIDs to be aware of their impending responsibilities under the rule.
- The August 2025 date was also selected to allow BIDs who expressed a need to secure funding the opportunity to use the FY26 budget cycle to advocate for discretionary funds from local Council Members. DSNY has already heard of this option being utilized by at least one BID.

Cost Issues:

- The rule is not prescriptive and allows BIDs to decide the best and most cost-effective method to keep bags off the street.
- Many BIDs have already purchased or are in the process of purchasing on-street containers. The market cost of the most common container type ranges from \$5,000 to \$12,000 depending on the container size. Many BIDs would require only one or two containers. BIDs with greater service areas would require additional bins. If a BID chooses to use containers, DSNY does not dictate a particular manufacturer, and entities may select any container model that meets designated size and material specs.
- On-street containers represent a one-time upfront cost with minimal long-term maintenance/upkeep costs.
- BIDs are not required to purchase on-street containers and may work with DSNY to determine alternate methods to keep trash bags off the street, including but not limited to the following:
 - BIDs may cart refuse directly to approved DSNY garages. Depending on volume and existing staffing levels, BIDs may use existing vehicles and staffing or may choose to engage in a contract with an external entity. Costs vary depending on the services contracted.
 - BIDs may opt to purchase alternative containers for trash set-out, such as lidded bins or tilt trucks. Bins and tilt trucks range in cost from approximately \$50 per 45 gallon bin to \$1500 per 1 cubic yard tilt truck with lid.

- Additionally, for BIDs that collect minimal refuse, BIDs may comply using a zero-cost solution, such as the direction to place refuse directly in existing DSNY baskets or the addition of a DSNY litter basket to a corridor.
- BIDs that cited costs of \$200,000 or more overestimated the cost of compliance substantially. Upon investigation, DSNY learned that these estimates included either the replacement of every single litter basket in a BID's district and/or the siting of an on-street container at every single corner of a district. Both of these actions are unnecessary and in no way required by the rule.
- DSNY is working to get additional funding for smaller BIDs and will retain the discretion to refrain from enforcement where there are conditions that make it infeasible for affected parties to comply.

Enforcement Issues:

- There were comments raised relating to whether an entity as a partner with the City to achieve shared goals should be subject to fines. The entire City is subject, or in the process of being subject, to containerization regulations that include fines. This applies to our partners as well.
- Please note that DSNY's main goal is compliance and that fines are the last resort.

Siting Issues:

- DSNY and DOT have worked directly with BIDs to select appropriate sites for containers. DSNY and DOT speak regularly about siting coordination and have increased regular coordination to ensure adequate space is made available for trash containerization. DSNY has made every effort to ensure siting is not an issue if a BID chooses to utilize containers.
- DSNY has also committed in writing to the BIDs that if a BID is awaiting City approval to utilize on-street containers, the BID should discuss interim solutions with DSNY.

Community Groups:

- Organizations that engage in volunteer cleanups are encouraged to continue to coordinate with DSNY to ensure proper disposal, as has been standard practice for many years.

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. Chapter 1 of Title 16 of the Rules of the City of New York is amended by adding a new section 1-12 to read as follows:

§ 1-12 Improper Placement of Refuse and Recycling for Department Collection

(a) Definitions. For purposes of this section, the following terms have the following meaning:

(1) Entity. The term “entity” means any non-governmental organization that performs or causes others to perform cleaning services such as manual sweeping and cleaning of sidewalks, public plazas, streets, curbs and gutters, or emptying of public litter baskets, for the purpose of supporting local businesses or communities.

(2) Business improvement district. The term “business improvement district” means any business improvement district established pursuant to chapter 4 of title 25 of the New York City Administrative Code or pursuant to relevant state law.

(3) Merchant association. The term “merchant association” means a group of merchants located in a commercial corridor that create an association to provide services and advocate on behalf of local business owners.

(4) Neighborhood association. The term “neighborhood association” means a group of residents who advocate to improve the quality of life or organize activities within a neighborhood.

(b) No business improvement district, merchant association, neighborhood association, or other entity or organization acting under the direction of an entity shall be permitted to place any amount of refuse or recycling next to or against any public litter basket placed by the Department, or at any other location described in section 16-120(e)(2) of the New York City Administrative Code, except in accordance with rules of the department relating to collection.

(c) Any material placed out for collection by the Department by an entity, or organization acting under the direction of an entity, must be placed in rigid receptacles with tight fitting lids that do not exceed fifty-five gallons in size, unless a different containerization method or alternative set-out method is approved by the Department. Alternative containerization and set-out methods include, but are not limited to:

(1) coordinating with the Department to transport waste directly to a Department garage;

(2) placing waste in wheeled containers no larger than 1 cubic yard; and

(3) placing waste in containers no greater than 14 feet in length sited in coordination with the Department and the Department of Transportation.

(d) Any entity or organization acting under the direction of an entity violating subdivision (b) of this section shall be subject to the civil penalty for violations of section 16-120(e)(2).

§ 2. This rule takes effect on August 1, 2025, provided, however, that the Department may delay enforcement of this rule if it determines, in its discretion, that conditions make it infeasible for affected parties to comply by such date.