

New York City Department of Sanitation
Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? DSNY is proposing to amend its rules relating to the use of certain receptacles by certain entities that receive Department collection service.

When and where is the hearing? DSNY will hold a public hearing on the proposed rule. The public hearing will take place via Microsoft Teams at 9:30 AM on August 8, 2024 using the following link:

https://teams.microsoft.com//meetup-join/19%3ameeting_OWJIM2E0ZjgtN2U2YS00NjJkLWFINTctNTVmMGYzOThIOGI1%40thread.v2/0?context=%7b%22Tid%22%3a%2232f56fc7-5f81-4e22-a95b-15da66513bef%22%2c%22Oid%22%3a%221d3255a2-4904-4aaa-899e-3f943348182b%22%7d

Join the meeting now

Meeting ID: 228 025 247 189

Passcode: Vdjy87

Dial in by phone

[+1 646-893-7101, 560471597#](tel:+16468937101560471597) United States, New York City

Phone conference ID: 560 471 597#

Join on a video conferencing device

Tenant key: cityofnewyork@m.webex.com

Video ID: 118 414 559 8

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DSNY through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dsny.nyc.gov.

- **Mail.** You can mail written comments to DSNY, 125 Worth Street, Room 710, New York, NY 10013.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing mliquori@dsny.nyc.gov by August 7, 2024. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign-up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? The deadline for submitting written comments shall be August 8, 2024.

What if I need assistance to participate in the hearing? You must tell the Bureau of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us or by telephone at (646) 885-4786 or by email at mliquori@dsny.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by August 1, 2024.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at 125 Worth Street, Room 710, New York, NY 10013 and on DSNY’s website.

What authorizes DSNY to make this rule? Sections 753 and 1043(a) of the New York City Charter and section 16-120 of the New York City Administrative Code Section authorize DSNY to make this proposed rule. This proposed rule was not included in DSNY’s regulatory agenda for this Fiscal Year because it was not contemplated when DSNY published the agenda.

Where can I find the DSNY’s rules? DSNY’s rules are in Title 16 of the Rules of the City of New York.

What laws govern the rulemaking process? DSNY must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose

This proposed rule would require that all buildings that receive Department collection, other than residential buildings containing ten or more dwelling units, set out any refuse at the curb for DSNY collection in rigid containers with tight-fitting lids. This requirement would go into effect on November 13, 2024. By June 1, 2026, the proposed rule would require that such rigid containers with tight fitting lids be purchased from an authorized vendor. Such authorized vendor would be chosen through a competitive procurement process and such receptacles would be available for purchase from a retail outlet or online platform.

This rule would allow all buildings and entities that receive Department collection, or are applying for collection service, to apply for and receive a waiver if compliance would create a public safety hazard for pedestrians or would pose an unreasonable hardship. 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.

These changes are a part of the City's commitment to cleaning up New York City streets and reducing food sources for rats. Residences and other buildings that receive Department collection are generators of refuse, and bags of waste set out for collection on the curb, even when in compliance with existing waste setout requirements, attract rats and vermin. Requiring such buildings to utilize a specific City approved receptacle for the disposal of refuse will allow DSNY to streamline collections and further limit potential food sources for vermin.

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. Subdivision (a) of section 1-02.1 of Title 16 of the Rules of the City of New York is amended to read as follows:

(a) Except as otherwise authorized in 16 RCNY § 1-02.3, occupants of residential buildings, public buildings, and special use buildings, except commercial occupants of residential buildings where Department collection service is not otherwise authorized by 16 RCNY § 1-03, shall place their receptacles or bags containing solid waste or recyclables out at the curb for collection by the Department as follows:

1. Except as provided in paragraph (2) of this subdivision, and in accordance with section 1-02.5 of this chapter, materials must be placed out at the curb no earlier than 8:00 p.m. on the day before scheduled collection and no later than 12:00 a.m. on the scheduled collection day;
2. The following materials must be placed out at the curb no earlier than 6:00 p.m. on the day before scheduled collection and no later than 12:00 a.m. on the scheduled collection day: (i) materials placed out for collection in receptacles with a tight-fitting lid; and (ii) designated recyclable paper that is tied and bundled securely without a container and set out in accordance with the requirements found in 16 RCNY § 1-08(h);
3. Receptacles containing solid waste that are set out at the curb must not exceed fifty-five gallons in size, except for those receptacles that are authorized for use pursuant to section 1-02.5 of this chapter;
4. Receptacles containing designated recyclable materials, organic waste or yard waste that are set out at the curb must comply with the container specifications found in 16 RCNY § 1-08; and
5. All receptacles shall be removed before 9:00 p.m. on the day of collection, or if such collection occurs after 4:00 p.m., then before 9:00 a.m. on the day following collection.

§ 2. Chapter 1 of Title 16 of the rules of the city of New York is amended by adding a new Section 1-02.5, to read as follows:

§ 1-02.5 Receptacles Required for Certain Buildings that Receive Department Collection

(a) For purposes of this section, the term “authorized vendor” means any vendor selected by the Department through a competitive procurement process to produce New York City standardized receptacles, with the approval of the Department of Health and Mental Hygiene and the Department of Housing Preservation and Development.

(b) No later than November 13, 2024, all buildings and entities that receive Department collection, other than residential buildings containing ten or more dwelling units, must set out any refuse at the curb for collection by the Department in rigid receptacles with tight fitting lids.

(c) No later than June 1, 2026, all buildings and entities that receive Department collection, other than residential buildings containing ten or more dwelling units, must set out any refuse at the curb for collection by the Department in rigid receptacles with tight-fitting lids that are purchased from an authorized vendor, and in accordance with 16 RCNY § 1-02.1(a).

(d) Buildings and entities that receive Department collection, or are applying for collection service, may request a waiver from the Department of the requirements set forth in subdivisions (b) and (c) 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. Buildings and entities must submit a waiver request using a form available on the Department’s website;
2. The Department will notify such building or entity within 60 days if such temporary waiver has been granted or denied;
3. Buildings or 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 building or 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 building or entity regularly produces without creating a public safety hazard for pedestrians or an unreasonable hardship.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Use of Certain Receptacles by Certain Entities that Receive Department
Collection Service**

REFERENCE NUMBER: DSNY-42

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because violations pose a significant risk to public health.

/s/ Francisco X. Navarro
Mayor's Office of Operations

May 13, 2024
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Use of Certain Receptacles by Certain Entities that Receive Department Collection Service

REFERENCE NUMBER: 2024 RG 041

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: May 17, 2024