

New York City Department of Housing Preservation and Development

Notice of Public Hearing and Opportunity to Comment on Proposed Rules **(AMENDED NOTICE)**

What are we proposing? The New York City Department of Housing Preservation and Development (“HPD”) is proposing to amend its rules requiring certain buildings to install and utilize waste containerization systems.

When and where is the hearing? HPD will hold a public hearing on the proposed rule online. The public hearing will take place from 9:30 AM to 11:00 AM on May 28, 2020. HPD had previously scheduled an in-person public hearing to take place on April 16, 2020. No in-person hearing will occur. To participate in the public hearing, enter the Webex URL: <https://departmentofsanitationnewyork.my.webex.com/departmentofsanitationnewyork.my/j.php?MTID=m29a4a57cd0ce7d5bcd4be7a6d28c3375> If prompted to provide a password or number, please enter the following: Meeting Number 796 986 685 Password 12345! (123450 from phones and video systems). You may also join the meeting via device audio or dial-in via phone. To dial-in via phone, please use the following dial-in phone number and participant code: Phone (408) 418-9388 Access code 796 986 685 Password (if requested) 123450 from phones and video systems. If you have low bandwidth or inconsistent internet connection, use the dial-in option for the hearing. This will reduce the possibility of dropped audio and stutters.

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

- **Website.** You can submit comments to the HPD through the NYC Rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rules@hpd.nyc.gov.
- **Mail.** You can mail written comments to HPD, Attention: Assistant Commissioner Mario Ferrigno, 100 Gold Street, Room 5-Z7, New York, NY 10038.
- **Fax.** You can fax written comments to HPD at Assistant Commissioner Mario Ferrigno at 212-863-8763.
- **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 calling 212-863-8602 or by emailing at RIFENM@hpd.nyc.gov by May 27, 2020 at 5:00 P.M. 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.

- To join the hearing, enter the Webex URL:
<https://departmentofsanitationnewyork.my.webex.com/departmentofsanitationnewyork.my/j.php?MTID=m29a4a57cd0ce7d5bcd4be7a6d28c3375>

If prompted to provide a password or number, please enter the following:
Meeting Number: 796 986 685
Password: 12345! (123450 from phones and video systems)

- Join via phone or dial-in:

When joining the meeting you can join via device audio, or dial-in via phone. To dial-in via phone, please use the following dial-in phone number and participant code:

Phone: (408) 418-9388

Access code: 796 986 685

Password (if requested): 123450 from phones and video systems

If you have low bandwidth or inconsistent internet connection, use the dial-in option for the hearing. This will reduce the possibility of dropped audio and stutters.

Is there a deadline to submit comments? The deadline for submitting written comments shall be May 28, 2020.

What if I need assistance to participate in the hearing? You must tell HPD if you need a reasonable accommodation of a disability at the hearing. You can tell us by mail at the address given above or by email at RIFENM@hpd.nyc.gov. You may also tell us by telephone at 212-863-8602. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by May 21, 2020.

This hearing has the following accessibility option(s) available: Simultaneous transcription for people who are deaf or hard of hearing and Audio only access

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.

What authorizes HPD to make this rule? Sections 1043 and 1803 of the City Charter and Section 27-2021 of the Administrative Code authorize HPD in conjunction with the Department of Sanitation and the Department of Health and Mental Hygiene to make this proposed rule. This proposed rule was not included in HPD's regulatory agenda for this Fiscal Year because it was not contemplated when HPD published the agenda.

Where can I find HPD's rules? HPD's rules are in Title 28 of the Rules of the City of New York.

What laws govern the rulemaking process? HPD 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 of Proposed Rule

When large, new buildings are designed, there currently is no requirement that such buildings consider waste management planning and incorporate measures for managing the substantial amount of refuse and recyclables generated by residents of such buildings. Curbside placement of piled bags of refuse generated at such buildings for collection by the Department of Sanitation (“DSNY”), given their large size, results in mountains of black bags placed along the curb on the sidewalks, not only obstructing pedestrian flow, but also impacting the quality of life of the surrounding area, especially in the summer months and after delayed collection during the winter months due to snow. These bags are also a huge food source for rats.

The proposed rule would require owners and/or managing agents of certain new residential multiple dwellings to install a waste containerization system for the management of waste generated (unless DSNY determines that collection service through this system is not feasible).

Pursuant to Local Law 56 for the Year 1967, Local Law 11 for the Year 1971, and Chapter 907 of the Laws of 1985, DSNY, the Department of Health and Mental Hygiene (“DOHMH”), and the Department of Housing Preservation and Development (“HPD”) must jointly approve via rule (“Tripartite General Orders”) any new specifications for waste management systems in dwellings.

This jointly drafted proposed rule would amend the existing Tripartite General Orders by requiring owners and/or managing agents of certain new residential multiple dwellings, including commercial buildings that are turned into residential buildings, to install a waste containerization system to manage waste generated at such building unless DSNY determines that collection service through this system is not feasible.

Specifically, this proposed rule would require the installation of a waste containerization system in:

- Any new multiple dwelling building that contains 300 or more dwelling units; or
- Any commercial building that is altered, enlarged or otherwise modified from its original physical design in order to be newly classified by the New York City Department of Buildings (“DOB”) as a multiple dwelling building that contains 300 or more dwelling units; or
- Any commercial building having 50 percent or more of its floor area renovated in order to be classified by DOB as a multiple dwelling building that contains 300 or more dwelling units.

DSNY also reserves the right to waive this mandatory requirement if it determines such waste containerization system is not operationally feasible at any time for reasons including, but not limited to, one or more of the following:

- the vehicle operator for DSNY must be able to drive safely any of its collection vehicles within the boundary lines of any private property that such collection vehicle must access. DSNY reserves the right to require the submission of drawings or plans, including, but not limited to, an auto-turn analysis depicting one of its collection vehicles; or

- a DSNY collection truck must be able to enter and exit the waste holding area with normal and customary maneuvering by the operator; or
- DSNY must have the necessary vehicles and equipment to collect the materials placed out for collection by the building through the waste containerization system; or
- the area in which such containers are stored, if located on private property, must continually be kept and maintained in good condition and not pose any threat of injury to DSNY workers or damage to its vehicles and equipment during collection; or
- meeting all specifications outlined in section 27-12 of this subchapter.

DSNY may deny or suspend collection service to any building required by the proposed rule to have a waste containerization system if all provisions have not been met.

In conjunction with this rule, the DOHMH and DSNY will amend their respective provisions of the existing Tripartite General Orders, which can be found in, respectively, Chapter 17 of Title 24 of the Rules of the City of New York and Chapter 9 of Title 16 of the Rules of the City of New York.

HPD's authority for this rule is found in sections 1043 and 1803 of the New York City Charter and section 27-2021 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“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. Subchapter B of Chapter 27 of Title 28 of the Rules of the City of New York is amended by adding a new Section 27-11.1, to read as follows:

§ 27-11.1 Mandatory Requirement to Install Waste Containerization System.

(a) The following buildings must include a waste containerization system in accordance with this subchapter:

(1) any new multiple dwelling building that contains at least 300 or more dwelling units; or

(2) any newly altered commercial building that contains at least 300 or more dwelling units; or

(3) any commercial building having 50 percent or more of its floor area renovated in order to be classified by the Department of Buildings as a multiple dwelling building that contains at least 300 or more dwelling units.

(b) For the purposes of this section:

(1) A “new multiple dwelling building” means a multiple dwelling for which plans that include design drawings have been submitted to the Department of Buildings on

or after the effective date of this rule. A new multiple dwelling building also includes those buildings for which plans that include design drawings have been submitted to, but have not been approved by, the Department of Buildings as of the effective date of this rule. A new multiple dwelling does not include an existing multiple dwelling, unless any alteration increases the amount of floor surface area by more than 110% over the amount of existing floor surface area.

(2) A “newly altered commercial building” means (i) any commercial building that is altered, enlarged or otherwise modified from its original physical design in order to be classified by the Department of Buildings as a multiple dwelling building on or after the effective date of this rule or (ii) any commercial building having 50 percent or more of its floor area renovated in order to be classified by the Department of Buildings as a multiple dwelling building on or after the effective date of this rule. A newly altered commercial building also includes those buildings for which plans that include design drawings have been submitted to, but have not been approved by, the Department of Buildings as of the effective date of this rule.

(c) The Department of Sanitation may waive the mandatory requirements for a building required by subdivision (a) of this section to install a waste containerization system at any time if the Department of Sanitation determines that collection service utilizing a waste containerization system is not operationally feasible for reasons including, but not limited to, one or more of the following:

(1) the vehicle operator for the Department of Sanitation must be able to drive safely any of its collection vehicles within the boundary lines of any private property that such collection vehicle must access. The Department of Sanitation reserves the right to require the submission of drawings or plans, including, but not limited to, an auto-turn analysis depicting one of its collection vehicles; or

(2) the Department of Sanitation collection truck must be able to enter and exit the waste holding area with normal and customary maneuvering by the operator; or

(3) the Department of Sanitation must have the necessary vehicles and equipment to collect the materials placed out for collection by the building through the waste containerization system; or

(4) the area in which such containers are stored, if located on private property, must continually be kept and maintained in good condition and not pose any threat of injury to Department of Sanitation workers or damage to its vehicles and equipment during collection; or

(5) meeting all specifications outlined in section 27-12 of this subchapter.

(d) The Department of Sanitation may deny or suspend collection service to any building subject to the requirements outlined in this section if any of the provisions of this subchapter are not met. The conditions that contributed to the denial or suspension of such collection service must be corrected within 60 days of the date of denial or suspension.

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: Requirements for Waste Containerization Systems in Certain Buildings

REFERENCE NUMBER: HPD-66

RULEMAKING AGENCY: Department of Housing Preservation and Development

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

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

February 14, 2020
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: Requirements for Waste Containerization Systems in Certain Buildings

REFERENCE NUMBER: 2019 RG 091

RULEMAKING AGENCY: Department of Housing Preservation and Development

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
Acting Corporation Counsel

Date: 2/13/20