

New York City Department of Sanitation

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

What are we proposing? The New York City Department of Sanitation (“DSNY”) is proposing to amend its rules to require certain buildings to submit a building waste management plan.

When and where is the hearing? DSNY 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. DSNY 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 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.
- **Fax.** You can fax written comments to DSNY at 212-788-3876.
- **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 646-885-4786 or by emailing at mliquori@dsny.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 the Bureau of Legal Affairs 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 mliquori@dny.nyc.gov. You may also tell us by telephone at 646-885-4786. 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 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 of the City Charter and Section 16-120 of the Administrative Code authorize DSNY to make this proposed rule. This rule was included in DSNY's regulatory agenda for this Fiscal Year.

Where can I find 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 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 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 submit a building waste management plan for approval by DSNY.

Section 1 of the proposed rule would make technical amendments to 16 RCNY 1-02(a) to conform with the new changes.

Section 2 of the proposed rule would add a new section 16 RCNY 1-02.2 that would require the submission of a waste management plan to DSNY. Such waste management plan would be required for the following classes of buildings:

- any new multiple dwelling building that contains 150 or more dwelling units; or
- any commercial building that is altered, enlarged or otherwise modified from its original physical design in order to be classified by DOB as a multiple dwelling building that contains 150 or more dwelling units; or
- any commercial building with 50 percent or more of its floor area renovated in order to be classified by DOB as a multiple dwelling building that contains 150 or more dwelling units.

Such waste management plan must be submitted to DSNY in a form prescribed and made available on its website. The plan must include, but not be limited to:

- the name and contact information of the owner of such building, and his or her agent, if applicable;
- the number of dwelling units;
- storage plans for refuse, designated recyclable material, and designated organic waste that could be generated while the building is in operation, ensuring sanitary storage of 150 percent of all the above materials as normally accumulated or generated within the building between any regularly scheduled collection;
- the estimated amount of refuse, designated recyclable material, and organic waste that could be generated if building operates at full capacity;
- a plan to ensure that designated recyclable materials and organic waste that are required to be source separated are kept separate for recycling collection;
- confirmation of compliance with the provisions relating to refuse and recyclable storage space, refuse chute and chute access rooms as required by DOB pursuant to Sections 1213.1, 1213.1.1, 1213.1.1, 1213.2 and 1213.3 of the New York City Building Code;

- confirmation of a waste containerization system, if required pursuant to section 9-11.1 of this title (which is in the process of being promulgated), and in accordance with all specifications as outlined in subchapter B of chapter 9 of Title 16; and
- how and where the material will be placed out for DSNY collection. Such placement must be in accordance with all rules and regulations and may not impede the flow of pedestrian traffic.

A building must submit the waste management plan to DSNY when plans that include design drawings are submitted to DOB. Additionally, DSNY reserves the right to deny collection to any building for the failure to submit a waste management report or for those buildings required to have a waste containerization system for failing to submit a waste containerization plan or for submitting an inadequate plan.

DSNY's authority for these rules is found in section 753 of the New York City Charter and section 16-120 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. Subdivision (a) of section 1-02 of Chapter 1 of Title 16 of the Rules of the City of New York is amended to read as follows:

- (a) Subject to the conditions and fees set forth in [16 RCNY § 1-03] sections 1-02.2 and 1-03 of this Chapter, the Department will provide collection service for ashes and solid waste generated by occupants of residential buildings, public buildings and special use buildings, excluding, however, all commercial occupants of said residential buildings unless such service is otherwise authorized by [16 RCNY § 1-03] section 1-03 of this Chapter.

§ 2. Chapter 1 of Title 16 of the Rules of the City of New York is amended by adding a new Section 1-02.2, to read as follows:

§ 1-02.2 Waste Management Plan.

- (a) An owner of a new multiple dwelling building, as defined in subdivision (b) of section 9-11.1 of subchapter B of chapter 9 of this title, that contains at least 150 dwelling units or a newly altered commercial building, as defined in such subdivision, that contains at least 150 dwelling units, or his or her agent, must submit a waste management plan in accordance with this section.
- (b) An owner, or his or her agent, of any building for which a waste management plan is required pursuant to this section, must submit such waste management plan to the department in a form prescribed by the department and made available on its website. Such waste management plan must include, but not be limited to:

- (1) the name and contact information of the owner of such building, and his or her agent, if applicable;
 - (2) the number of dwelling units in such building;
 - (3) storage plans for refuse, designated recyclable material, and designated organic waste that could be generated while the building is fully occupied, ensuring sanitary storage of 150 percent of all the above materials as normally accumulated or generated within the building between any regularly scheduled collection;
 - (4) the estimated amount of refuse, designated recyclable material, and organic waste that could be generated if the building is fully occupied;
 - (5) a plan to ensure that designated recyclable materials and organic waste that are required to be source separated are kept separate for recycling collection;
 - (6) confirmation of compliance with the provisions relating to refuse and recyclable storage space, refuse chute and chute access rooms as required by the Department of Buildings pursuant to sections 1213.1, 1213.1.1, 1213.1.1, 1213.2 and 1213.3 of the New York City Building Code;
 - (7) confirmation of a waste containerization system, if required pursuant to section 9-11.1 of this title, and in accordance with all specifications as outlined in subchapter B of chapter 9 of this title; and
 - (8) how and where the refuse and recyclable material will be placed out for collection by the Department. Such placement must be in accordance with all rules and regulations and may not impede the flow of pedestrian traffic or otherwise constitute a sidewalk obstruction.
- (c) For a new multiple dwelling or a newly altered commercial building, such plan must be submitted to the Department no later than when plans that include design drawings are submitted to the Department of Buildings or the effective date of this rule, whichever is later.
- (d) The Department may deny collection service to any building that fails to submit a waste management plan in accordance with this section.
- (e) Additionally, any building that is required to comply with section 9-11.1 of this title, even if such requirement is waived, must have its waste management plan approved by the Department. Upon submission of a waste management plan requiring the approval of the Department, the Department shall have 25 days to review. Upon review, if such plan is disapproved, the Department shall provide details to the applicant of the plan's deficiency. Such applicant will then have an additional 15 days to submit an amended waste management plan for approval. The Department shall have 25 days to review such amended waste management plan for approval and shall make its final determination as to the adequacy of such waste management plan. The Department may deny collection service to any building required to comply with section 9-11.1 of this title that receives a certificate of occupancy from the Department of Buildings prior to having an approved waste management plan.

**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: Waste Management Plans for Certain Buildings

REFERENCE NUMBER: DSNY-22

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 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: Waste Management Plans for Certain Buildings

REFERENCE NUMBER: 2020 RG 010

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
Acting Corporation Counsel

Date: 2/13/20