

## **New York City Department of Sanitation**

### **NOTICE OF ADOPTION OF FINAL RULE ESTABLISHING CUSTOMER SERVICE AND OPERATIONS REQUIREMENTS FOR COMMERCIAL WASTE ZONES**

NOTICE IS HEREBY GIVEN in accordance with the requirements of Section 1043 of the New York City Charter and pursuant to the authority vested in the Commissioner of the Department of Sanitation by sections 753 of the New York City Charter and Title 16-B of the New York City Administrative Code that the Department adopts the following rule establishing customer service and operations requirements for the Commercial Waste Zones program. The Department published a Notice of Opportunity to Comment on the proposed rule in the City Record on December 18, 2020. On January 26, 2021 the Department held a public hearing on the proposed rules.

#### **Statement of Basis and Purpose of Final Rule**

Typically in New York City, more than 100,000 commercial establishments generate more than 3 million tons of refuse and recyclables. Approximately 90 private carters collect this waste from commercial establishments across the City.

The current system for collecting commercial waste from the City's businesses has been plagued by dangerous driving and insufficient attention to public safety, harmful environmental impacts, and poor customer service. Since 2010, private waste collection trucks have killed at least 28 people on New York City streets.

In some parts of the City, more than 50 carters service a single neighborhood, and an individual commercial block may see dozens of different private waste collection trucks on a given night. This has resulted in millions of excess truck miles driven every year that harm the City's air quality, increase greenhouse gas emissions, create noise pollution and negatively impact public health. Additionally, the industry has lacked strong customer service standards, and pricing has remained unclear and confusing to most customers, putting small businesses at a significant disadvantage.

In response to these documented problems in the commercial waste collection industry, the Department released a comprehensive plan for reforming the private carting industry in November 2018 ("the Plan"), available at <http://www.nyc.gov/commercialwaste>. The Plan proposed the establishment of commercial waste zones - a safe and efficient collection system to provide high quality, low cost service to New York City businesses while advancing the City's zero waste and sustainability goals. The Department developed this plan after years of extensive public outreach and engagement with a wide variety of stakeholders. On November 20, 2019, Local Law number 199 for the year 2019 was enacted, which authorizes the Department to create a commercial waste zones system. Under Local Law 199, codified in Title

16-B of the New York City Administrative Code, the Sanitation Commissioner has divided the geographic area of New York City into 20 “commercial waste zones.”

The Department will use a competitive procurement process to select up to three private carters to service businesses within each commercial waste zone. The competitive solicitation process will also be used to select up to five carters to provide containerized commercial waste collection services citywide. This process will identify the carters that can provide high quality service at low prices. The resulting contracts will include standards for pricing, customer service, safety, environmental health, and requirements to promote the City’s commitment to recycling and sustainability. The Request for Proposals (RFP) will be issued in two parts. Part 1 was issued on November 19, 2020, with responses due on February 19, 2021. Part 2 of this RFP is being issued at the same time as this final rule.

Commercial waste zones will apply to the collection of commercial refuse, recyclables, and source-separated organic waste. It will exclude specialized or intermittent waste streams, such as construction and demolition debris, medical waste, hazardous waste and other types of waste that will continue to be collected and managed under existing City and State regulations.

Under the new commercial waste zones system, instead of dozens of different carters operating in a City neighborhood on a given night, only a few carters will operate in each area. With fewer trucks on the streets and shorter routes, zoned collection will also mean improved traffic and air quality and less unsafe driving behavior and worker fatigue. Citywide, the adoption of the commercial waste zones system will dramatically reduce truck traffic associated with this industry by more than 50 percent. This system will improve the quality of life of all New Yorkers, serve the needs of the City’s local businesses, and support the City’s short and long-term goals for a cleaner, safer, and more sustainable city.

On February 14, 2020, the Department published the final rules creating the 20 commercial waste zones. Per Administrative Code Section 16-1002(e)(3), the Department will set the implementation schedule for when the commercial waste zone system will take effect in each zone. This will likely be staggered, with different zones transitioning to the commercial waste zone system at different times. Customers will be required to choose a carter that has been selected for their zone (or a carter to provide containerized commercial waste collection service, as applicable) by the end of the transition period of the zone in which their business is located.

In this rulemaking, the Department is establishing requirements for carters selected to operate under the commercial waste zones program. Specifically, these rules include provisions addressing:

- Definitions;
- Customer service requirements, including provisions addressing the requirements for customers to hire a zone carter to collect commercial waste; the minimum level of service that carters must offer to all commercial establishments in the zones they have been awarded; maximum rates and rate structures, including additional fees; denial,

suspension and termination of service; overfilled containers, contamination, infeasible collection and other non-conforming material; procedures for fees and non-collection; customer service plans; written service agreements, billing and payment; and required notifications to customers and the Department;

- Requirements for collecting recyclable materials and source separated organics, including provisions addressing recycling requirements for carters, collection of organic waste that has been source separated, commercial waste diversion and disposal; recordkeeping; written agreements; reporting; and exempt waste streams; and
- Operational requirements for carters, including provisions addressing restrictions on operation in multiple zones; requirements for signs and decals; requirements regarding operation of commercial waste vehicles; containers and collection of waste; labeling of containers; routes and schedules; protection of property; emergency response requirements; vehicle collisions; and vehicle maintenance and condition.

This rulemaking also makes conforming amendments to the existing requirements for commercial establishments related to recycling and source separated organics to recognize the commercial waste zones program.

These new rule requirements will take effect in each zone when the commercial waste zones system is introduced in that particular zone, according to the implementation schedule that the Department will publish in a future rulemaking.

Please note that while some of these requirements for commercial waste carters are similar to existing Business Integrity Commission (BIC) requirements for trade waste licensees, many of the requirements have changed to meet the standards set out in Local Law 199. The requirements in BIC's rules for trade waste licensees will continue to apply until the transition of the commercial waste zones program occurs in each zone, in accordance with the schedule and further details to be provided in an upcoming DSNY rule. As commercial waste zone awardees enter into agreements with new customers in their assigned zones, they will be required to comply with these new rule requirements. However, licensees operating lawfully under existing contracts with customers can continue to operate until the end date of the zone transition period, and geographic restrictions on movement in and out of zones will not be enforced until the end of the zone transition period. Further details on the transition to commercial waste zones will be provided in a forthcoming rulemaking regarding the transition start and end dates.

After the transition to commercial waste zones occurs, BIC's requirements regarding the topics contained in these rules will not apply to commercial waste carters, but will continue to apply to licensees and registrants that are hauling forms of trade waste other than commercial waste, such as construction and demolition debris. However, certain requirements in BIC rules, such as requirements for licensing, character and fitness standards and certain safety requirements, will continue to apply to commercial waste zone carters after the commercial waste zones program is implemented. More details regarding the applicability of BIC rules to the commercial waste zones program will be provided in future rulemakings.

The Department published proposed rules on December 18, 2020. The Department held a public hearing on these rules on January 26, 2021, and received written comments until February 9, 2021. After careful review and consideration of all written comments received and all hearing testimony regarding the proposed rules, the Department has made the following changes in this this final rule:

- Updating definition of “standard service hours” in 16 RCNY § 20-01 in response to public comments from carters;
- Adding definitions of “designated carter” and “source separation” in 16 RCNY § 20-01;
- Clarifying restrictions on entering into contracts with zone customers, including providing examples that address containerized waste customers in 16 RCNY § 20-20;
- Clarifying that customers who do not enter into a written service agreement with a zone awardee or a containerized commercial waste awardee by the end of the transition period will be assigned a zone awardee by the Department in 16 RCNY § 20-20;
- Adding additional authorized fees, such as rental fees for equipment, collection service inside a building, fees for commercial waste generation audit services, and credit card fees in 16 RCNY § 20-21, in response to public comments from carters;
- Removing the requirement that the carter meet a two-hour pick-up window, but allowing a fee for a pick-up time within a window of less than two hours where a pick-up window is specified in the customer agreement in 16 RCNY § 20-21 in response to public comments from carters;
- Streamlining the process for suspension or termination of service for non-payment in 16 RCNY § 20-22 in response to public comments from carters;
- Expressly authorizing a carter to reschedule collection due to emergencies such as severe weather events, street closures and other emergencies in 16 RCNY § 20-23, in response to public comments from carters that the proposed rule was not clear on this point;
- Clarifying that fees imposed for contaminated recyclable materials or source separated organic waste must be imposed based on a physical inspection of the materials in 16 RCNY § 20-24;
- Removing the specific timeframes in which awardees must response to customer complaints and replacing it with a requirement to include a protocol for promptly addressing customer service requests and complaints in its Customer Service Plan in 16 RCNY § 20-25 in response to comments from carters that such requirements were infeasible;
- Clarifying the awardee’s obligation to respond to a customer’s missed collection complaint in 16 RCNY § 20-25 in response to comments that the proposed rule language was unclear;
- A requirement that customer service agreement include a clear description of applicable fees, as well as an estimated pick-up time for each collection in 16 RCNY § 20-26 in response to public comments from customer advocates;

- Clarifying that customer notices may be provided electronically where agreed upon between the carter and the customer in 16 RCNY § 20-26.
- Revising the requirements for awardees to notify the Department of significant designated recyclable material content in refuse in 16 RCNY § 20-28 in response to public comments from carters that the proposed rule provision was not practicable;
- Clarifying that co-collection of designated recyclable materials, where designated recyclable metal, glass and plastic and designated recyclable paper that have been previously source separated and set out by a generator are collected at the same time and placed in a single compartment of a waste hauling truck, is not permitted under the Commercial Waste Zones program under 16 RCNY § 20-31.
- Limiting the requirements for what has to be included in a customer sign or decal in 16 RCNY § 20-36 in response to public comments from carters;
- Clarifying that the carter emergency contact role can be held by more than one person in 16 RCNY § 20-42 in response to public comments from carters; and
- Moving the requirements regarding telematics systems to the Safety Requirements rules in Subchapter D of Chapter 20 of title 16, which are being published in a separate rulemaking.

DSNY's authority to promulgate these rules is found in New York City Charter §§ 753 and 1043, and title 16-B of the 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. Section 1-01 of title 16 of the rules of the city of New York is amended by deleting the definition of “Co-collection of recyclables.”

§ 2. The undesignated paragraph following paragraph (4) of Subdivision (d) of section 1-09 of title 16 of the rules of the city of New York is amended to read as follows:

In lieu of submitting information specified in paragraph (4), agencies/institutions may, with Department approval, develop and submit other criteria for estimating the amount of waste generated at a facility. For facilities within agencies/institutions that receive Department collection service, implementation plans shall include, in addition to paragraphs (1), (2), (3) and (4) of this subdivision, the location of the central collection area or areas required in subparagraph (g)(2)(i). For facilities within agencies/institutions that receive private carter service, implementation plans shall include, in addition to paragraphs (1), (2), (3) and (4) of this

subdivision, the name of the private carter or private carters, and must identify, by type, each designated recyclable material that will be collected by each private carter, and if applicable, whether the private carter will be utilizing single stream collection [and recycling or co-collection] of recyclables. Each agency/institution shall appoint an agency/institution recycling coordinator who shall be responsible for overseeing the establishment and operation of the agency's/institution's recycling program. Each agency/institution shall submit one plan to the Department for approval within three months of the effective date of this section and shall update such plan within a reasonable time if there are any significant changes, including changes in the information required to be supplied under paragraphs (3) and (4) of this subdivision.

§ 3. Paragraph (3) of subdivision (c) of section 1-10 of title 16 of the rules of the city of New York is amended to read as follows:

(3) Notwithstanding the source separation provisions of subdivision (b) of this section, a generator of private-carter collected waste may commingle designated metal, glass, and plastic with designated recyclable paper if:

(i) [his or her] the private carter [has furnished information to the business integrity commission of its ability] that collects such material operates as a designated carter pursuant to an agreement that was entered into pursuant to section 16-1002 of the Administrative Code and that authorizes such carter to use [either] single stream collection [and recycling, or co-collection] of recyclables; or

(ii) [a] such generator obtains a registration from the business integrity commission pursuant to paragraph (b) of section 16-505 of the administrative code of the city of New York[,] to transport its own designated recyclable materials [to a central holding location under the control of the generator, from which such designated recyclable materials will be collected by a private carter, who has furnished information to the business integrity commission of its ability] and is authorized by the business integrity commission to use [either] single stream collection [and recycling, or co-collection] of recyclables[, or delivered by the generator directly to a recycler].

§ 4. Paragraph 2 of subdivision (d) of section 1-10 of title 16 of the rules of the city of New York is amended to read as follows:

(2) As required by section 16-116 of the administrative code of the city of New York, generators must post a [sign] decal identifying each private carter approved to provide collection and/or recycling services for such generators. Such [sign] decal must use lettering of a conspicuous size and be prominently displayed by attaching it to a window near the principal or service entrance of the generator's premises so as to be easily visible from outside such premises. Such [sign] decal must [also identify, by type, each designated recyclable material that will be collected by each private carter and, if applicable, whether the private carter will be using single stream collection and recycling or co-collection of recyclables] display the private

carter's name, the private carter's license number issued by the business integrity commission pursuant to title 16-A of the Administrative Code, and the unique customer identifier number assigned to the customer by the private carter pursuant to 16 RCNY § 20-36(a).

§ 5. Subparagraph (ii) of paragraph (1) of subdivision (e) of section 1-10 of title 16 of the rules of the city of New York is amended to read as follows:

(ii) Notify his or her tenants, occupants, and/or employees, at least annually, in writing, of applicable source separation requirements, including what materials are required to be source separated and how to source separate such materials. A copy of such notification shall be [submitted] made available to the Department upon request [within five business days of such request either by postal mail or electronic mail to the Department], provided that any penalty imposed for a violation of this subparagraph shall be reduced to zero dollars if, on or before the initial return date stated on the notice of violation, the owner, lessee or person-in-charge of the premises submits proof of having cured such violation.

§ 6. Subchapter A of chapter 20 of title 16 of the rules of the city of New York is amended by adding a new section 20-01 to read as follows:

**§ 20-01 Definitions.**

(a) The following terms have the same meanings as such terms are defined in section 16-1000 of the Administrative Code: "awardee," "commercial waste," "commercial waste zone," "commissioner," "containerized commercial waste," "department," "organic waste," "trade waste."

(b) The following terms have the following meanings, except as otherwise provided in this chapter:

Container: The term "container" means a bin, dumpster, compactor or other receptacle for the storage or collection of commercial waste.

Commercial establishment. The term "commercial establishment" means a commercial establishment required to provide for the removal of commercial waste pursuant to the provisions of section 16-116 of the Administrative Code.

Containerized commercial waste awardee. The term "containerized commercial waste awardee" means an awardee that is authorized to provide containerized commercial waste collection, removal and disposal service citywide pursuant to an agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code.

Contamination. The term “contamination” means: (1) a bag or container of designated recyclable materials that contains a detectable quantity of refuse or organic waste; (2) a container of source separated organic waste that contains a detectable quantity of non-organic waste; or (3) a bag or container of refuse that contains a detectable quantity of designated recyclable materials.

Customer. The term “customer” means: i) a commercial establishment that is located within a commercial waste zone for which a zone awardee has been awarded an agreement pursuant to section 16-1002 of the Administrative Code and that selects such awardee for collection of commercial waste or has been assigned such awardee pursuant to paragraph 4 of subdivision e of such section; or ii) a commercial establishment that selects a containerized commercial waste awardee to collect containerized commercial waste.

Designated carter. The term “designated carter” means a licensee that is authorized to provide commercial waste collection services pursuant to an agreement between an awardee and the Department entered into pursuant to section 16-1002 of the Administrative Code. The term “designated carter” may describe the awardee or another licensee that the awardee has designated to fulfill the terms of such agreement as specified in the awardee’s Subcontracting Plan.

Designated covered establishment. The term “designated covered establishment” means any commercial establishment designated as an establishment required to separate organic waste pursuant to subdivision (a) of section 1-11 of this title.

Designated recyclable materials. The term “designated recyclable materials” means materials that have been designated for recycling by the Department pursuant to subdivision (a) of section 1-10 of this title.

Non-collection of commercial waste. The term “non-collection” means a particular instance when an awardee fails to perform a scheduled pick-up of commercial waste from a customer, but where the awardee has not suspended or terminated service.

Normal business hours. The term “normal business hours” means 9am to 5pm, Monday through Friday.

Organic waste processing facility. The term “organic waste processing facility” has the same meaning as set forth in section 1-01 of this title.

Overfilled container. The term “overfilled container” means a container with materials that project above its rim in a manner that impedes the complete closure of its lid and/or a container with materials that are placed outside the container and/or allowed to accumulate.



Refuse. The term “refuse” means commercial waste that is not organic waste or designated recyclable material.

Single stream collection of recyclables. The term “single stream collection of recyclables” has the same meaning as the term “single stream collection and recycling,” as defined in section 1-01 of this title and shall be deemed interchangeable with such term and with the term “single stream recycling and collection.”

Source separation. The term “source separation” means the separation at the point of generation of designated recyclable materials from each other or the separation of designated recyclable materials from solid waste.

Standard service hours. The term “standard service hours” means 8pm to 7am, Monday through Saturday, excluding the federal holidays listed in 5 U.S.C. § 6103. For purposes of this definition, a day of the week or a holiday (e.g. Monday or Memorial Day) begins at 8pm on that day and ends at 7am the following day.

Textiles. Textiles. The term “textiles” means textiles that: 1) are source separated by a commercial establishment or 2) are required be source separated by a commercial establishment pursuant to section 1-10 of this title.

Zone awardee. The term “zone awardee” means an awardee that is authorized to provide commercial waste collection, removal and disposal service in a particular zone assigned to the awardee pursuant to an agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code.

§ 7. Chapter 20 of title 16 of the rules of the city of New York is amended by adding a new subchapter B to read as follows:

### **Subchapter B. Customer Service Requirements**

#### **§ 20-20 Service to customers in a commercial waste zone.**

- (a) (1) Each commercial establishment must enter into a written service agreement with a zone awardee selected by the Department for the zone in which the commercial establishment is located, and/or a containerized commercial waste awardee in accordance with subdivision (c) of this section, to provide all commercial waste collection, removal and disposal services for the commercial establishment. All such written service agreements must meet the requirements of section 20-26 and must be

entered into no later than the final implementation date for the zone in which the commercial establishment is located, as set forth in the rules of the Department.

(2) This subdivision does not apply to a commercial establishment registered by the Business Integrity Commission to haul its own commercial waste pursuant to subdivision (b) of section 16-505 of the Administrative Code operating pursuant to the terms of such registration.

(b) A commercial establishment must not enter into an agreement for the collection, removal or disposal of commercial waste with more than one zone awardee selected for the zone in which the commercial establishment is located at the same time under any circumstances.

(c) In lieu of or in addition to a contract with a zone awardee, a commercial establishment may contract with a containerized commercial waste awardee for the removal of containerized commercial waste, provided that the other requirements of this section have been met. If a commercial establishment's contract with a containerized commercial waste awardee does not cover the entirety of the commercial establishment's commercial waste, the commercial establishment must enter into an agreement with a zone awardee for collection, removal and disposal of the remainder of the commercial establishment's commercial waste, except that such establishment may not contract with more than one zone awardee, as provided in subdivision (b) of this section .

Example 1: Bob's Restaurant is located in the zone Bronx East. Bob's Restaurant selects Containerized Carting to perform containerized commercial waste collection services. Containerized Carting receives an award to collect containerized commercial waste citywide and is also selected as a zone awardee for zone Bronx East. If Bob's restaurant uses Containerized Carting for containerized collection services, Bob's restaurant is prohibited from selecting a different Bronx East zone awardee to collect non-containerized commercial waste because Containerized Carting is a zone awardee for zone Bronx East.

Example 2: Molly's Restaurant is located in the zone Queens Central. Molly's Restaurant is looking for containerized commercial waste collection services for refuse. None of the zone awardees in zone Queens Central were selected to collect containerized commercial waste citywide. Molly's Restaurant can hire Containerized Carting to provide containerized commercial waste collection service and may choose to select a Queens Central zone carter to provide non-containerized refuse and organics collection.

(d) If an awardee is authorized to operate as a containerized commercial waste awardee and a zone awardee in a given zone, such awardee must follow all requirements applicable to zone awardees set forth in title 16-B of the Administrative Code and this

title with respect to all customers in such zone.

- (e) If a commercial establishment fails to enter into a written agreement with a zone awardee selected for the zone in which such commercial establishment is located or a containerized commercial waste awardee in accordance with the requirements of this section by the final implementation date for such zone, the Department will assign a zone carter to such commercial establishment and the processes and terms of service set forth in subdivision (e) of section 20-26 shall apply.

### **§ 20-21 Rates.**

- (a) (1) An awardee shall not charge or accept rates or fees for the collection, removal or disposal of commercial waste from a customer in a commercial waste zone above the maximum rates and maximum fees for such zone as set forth in the agreement with the Department under which such awardee is operating pursuant to section 16-1002 of the Administrative Code and as provided in this section.

(2) Rates for collection of designated recyclable materials and source separated organic waste must be proportionally lower than rates for refuse collection services in the proportion set forth in the agreement between the awardee and the Department where such agreement includes such a proportion, except that if the awardee collects no amount of refuse from the customer, the rate for designated recyclable materials and source separated organics cannot exceed the maximum rate for such material set forth in such agreement.

- (b) An awardee must not charge or accept rates or fees for the collection, removal or disposal of containerized commercial waste citywide above the maximum rates or fees for such service as set forth in the agreement with the Department under which such awardee is operating pursuant to section 16-1002 of the Administrative Code and as provided in this section. Paragraph (2) of subdivision (a) of this section shall apply to the collection, removal or disposal of containerized waste citywide only where such agreement also provides for the collection of designated recyclable materials or source separated organic waste.

- (c) (1) An awardee must only charge a customer in accordance with the pricing structure set forth in the agreement with the Department pursuant to which such awardee is operating. Such pricing structure must reflect the following pricing structure:
- i. A separately itemized charge based on frequency of collection by waste stream: refuse, designated recyclable materials and source separated organic waste; and
  - ii. A separately itemized charge based on weight or volume of waste collected by waste stream: refuse, designated recyclable materials and source separated organic waste.

An awardee must not charge any additional fees, except as provided in paragraph (2) of this subdivision.

(2) An awardee may impose fees only for the following:

(i) Cleaning containers or compactors;

(ii) Delivery, replacement or removal of carts or containers;

(iii) Rental of compactors or roll-off containers;

NOTE: Rental fees for containers or dumpsters other than compactors and roll-offs are prohibited by Administrative Code section 16-1002(c)(2);

(iv) Rental of equipment other than containers/dumpsters;

(v) Collection service that requires entry inside the building, other than service in and out of a loading dock;

(v) A requested pick-up outside of standard service hours;

(vi) A requested pick-up time within a window of less than two hours where a pick-up window is specified in the agreement;

(vii) A return rate, if an awardee must return to provide service based on a customer created condition, after following all applicable procedures set forth in section 20-24;

(viii) Overfilled containers, after following all applicable procedures set forth in section 20-24;

(ix) Designated recyclable materials or source separated organic waste with contamination of at least 10 percent, after following all applicable procedures set forth in section 20-24;

(x) If a driver has to wait due to a customer created delay in excess of 15 minutes, documented with GPS technology;

(xi) Late payment;

(xii) Insufficient funds, including but not limited to a bounced check or an electronic transfer that fails due to insufficient funds in the customer's account;

(xiii) Payment made by credit card if the following conditions are met:

(A) The fee must not exceed 3% of the amount charged for services; and

(B) The awardee must offer an alternate form of electronic payment, such as direct bank to bank transfer, with no added fee for the customer;

(xiv) Commercial waste generation audit services in accordance with the awardee's Zero Waste Plan; and

(xiv) Any other fees approved by the Department in accordance with the procedures set forth in the awardee's agreement with the Department pursuant to which the awardee is operating.

(d) (1) In addition to any automatic rate adjustments set forth in the agreement with the Department pursuant to which such awardee is operating, entered into pursuant to section 16-1002 of the Administrative Code, an awardee may petition the Department for an adjustment to the maximum rates (including any maximum fee amounts) set forth in such agreement in accordance with this subdivision. Such petition shall be made in a form and format prescribed by the Department. No later than 60 days after the submission of such petition, the Department shall either deny such petition in writing, along with a description of the reason for such denial, or commence with a public

hearing on such petition in accordance with the procedures described in this subdivision,. Such decision shall be within the discretion of the Department.

(2) Upon petition of an awardee in accordance with paragraph (1) of this subdivision, or upon its own initiative, the Department may hold a public hearing on the maximum rates (inclusive of any maximum fee amounts) charged by one or more awardees for the collection, removal or disposal of commercial waste as set forth in the agreement or agreements with the Department entered into pursuant to section 16-1002 of the Administrative Code by such awardee or awardees. At least 30 days prior to the public hearing, the Department will publish the date, time and location of the public hearing in the City Record and on the Department website. At the hearing, any member of the public may submit oral or written testimony regarding whether the maximum rates should be changed. The proponent of the rate change shall bear the burden of demonstrating, on an individual, zone or industry-wide basis, that existing rates do not allow for a fair and reasonable return to such awardee or awardees or are otherwise inconsistent with the purposes of title 16-B of the Administrative Code.

(3) In determining whether the maximum rates charged by one or more awardees for the collection, removal or disposal of commercial waste will be adjusted, the Department shall not be limited to evidence provided pursuant to paragraph (2) of this subdivision, and may request additional information from the proponent of the rate change, and may consider any relevant factor affecting the commercial waste industry or its customers, including but not limited to:

(i) Available data on the commercial waste industry, including but not limited to any material change in: operating revenues (overall revenues); regulated service operating revenues (revenue generated from waste removal services associated with the rate-regulated portion of a business) by waste stream; operating expenses; regulated operating expenses by waste stream; and total regulated waste tonnage disposed;

(ii) Any material change to waste disposal capacity or infrastructure; and

(iii) Any other factor that may be relevant to assessing a fair and reasonable return to the awardee or awardees, promoting the protection of customers from excessive or unreasonable charges, and promoting the purposes of title 16-B of the Administrative Code.

#### **§ 20-22 Denial of service prohibited; termination; suspension of service.**

(a) *General prohibition; minimum level of service.* (1) An awardee may not deny, suspend, or terminate commercial waste collection service to any commercial establishment within a zone for which the awardee has been awarded an agreement, except as otherwise provided in this section and as set forth in the agreement between the awardee and the Department pursuant to section 16-1002 of the Administrative Code.

(2) An awardee must offer to each commercial establishment within a zone for which the awardee has been awarded an agreement including the following minimum level of service:

(i) At least two days of refuse collection per week;

(ii) At least one day of designated recyclable materials collection per week; and

(iii) If the commercial establishment is a designated covered establishment, at least one day of source separated organics collection per week.

(3) Nothing in this subdivision shall prevent a commercial establishment and an awardee from mutually agreeing on terms of service that include less frequent or more frequent collection than the minimum level of service described in paragraph (2) of this subdivision.

(b) *Suspension or termination of service for non-payment.* (1) An awardee may suspend or terminate commercial waste collection service to a commercial establishment within a zone for which the awardee has been awarded an agreement if the commercial establishment is a current customer and owes full or partial payment to the awardee for services rendered for more than 45 days and the awardee has followed the procedures set forth in this subdivision.

(2) When a current customer has failed to pay the full amount due for 30 days, the awardee must notify the customer in writing that the account is past due, and that nonpayment may result in service suspension or termination, including the timeframe when such suspension or termination may occur.

(3) After at least 45 days of non-payment, the awardee may suspend or terminate service by notifying the customer by certified mail of such suspension or termination and the reason therefor. Such notice shall state that the customer may seek Department review of the awardee's decision to suspend or terminate service by submitting such request to the Department in writing no later than 120 days after receipt of such notice, along with evidence that service should not be suspended or terminated, and a copy of the postmarked certified mail receipt. The customer must also send a copy of such review request to the awardee.

(4) The Department will review each customer request for Department review and may ask either party to provide additional information necessary to make a determination. The Department will issue a final determination within 30 days of receipt of such request, unless such additional information is requested from either party, in which case the Department shall notify the parties of its determination within a reasonable timeframe. The awardee is under no obligation to provide service pending such review. If the awardee continues to provide service, any late fees set forth in the awardee's customer service agreement with the customer shall continue to accrue while such service is being provided in accordance with such agreement.

(c) Denial, suspension or termination for other allowable reasons. (1) Except in authorized cases of non-payment as described in subdivision b, an awardee may only deny, suspend, or terminate commercial waste collection service to a commercial establishment within a zone for which the awardee has been awarded an agreement after prior approval by the Department in accordance with this section.

(2) The Department will only grant approval pursuant to this subdivision if the awardee has followed the procedures set forth in this subdivision and demonstrates to the satisfaction of the Department one or more of the following:

(i) The commercial establishment has set out commercial waste in a form or manner that presents a direct health or safety threat to employees of the designated carter or to the public;

(ii) The commercial establishment has caused substantial damage to property of the awardee or its designated carter;

(iii) Provision of service to the commercial establishment would jeopardize the awardee's ability to meet the requirements of the awardee's agreement with the Department pursuant to section 16-1002 of the Administrative Code; or

(iv) The awardee has other good cause for denial, suspension or termination of service, consistent with the purposes of title 16-B of the Administrative Code.

(3) An awardee may seek denial, suspension or termination of service by notifying the commercial establishment by certified mail of its intention to deny, suspend or terminate service and informing the commercial establishment of the reason therefor. Such notice shall state that no later than 30 days after the postmark date on such notice, the commercial establishment may submit evidence to the Department demonstrating that circumstances described in paragraph (2) of subdivision (b) of this section have not occurred or other evidence that service should not be denied, suspended or terminated, along with a copy of the postmarked certified mail receipt of such notice.

(4) The awardee must provide a copy of the notice described in paragraph (1) of this subdivision to the Department along with evidence that circumstances described in paragraph (2) of this subdivision have occurred. In the case of subparagraphs (i) and (ii) of paragraph (2), the awardee shall provide photographic documentation where feasible. In all other instances, such evidence may include but need not be limited to photographic or video evidence, invoices, insurance reports, or police reports. The Department may ask either party to provide additional information necessary to make a determination.

(5) The Department shall notify the awardee and the commercial establishment of its determination regarding whether the awardee's request for approval for denial, suspension or termination of service has been granted no later than 45 days after receipt

of a copy of the notice described in paragraph (4) of this subdivision, unless additional information is requested by the Department from either party, in which case the Department shall notify the parties of its determination within a reasonable timeframe. Within 15 days of receipt of such determination, either party may appeal such determination in writing to the Commissioner.

(6) If the commercial establishment is a current customer, the awardee must continue providing service to such customer until a final determination by the Department has been made.

(d) Nothing in this section shall preclude the awardee from seeking to enforce the terms of its agreement with a customer, including but not limited to terms governing damages or other remedies for breach of contract.

(e) Nothing in this section shall be construed to alter, amend or negate any obligation of the awardee to provide service to any commercial establishment in accordance with the terms of the agreement between the awardee and the Department entered into pursuant to section 16-1002 of the Administrative Code.

(f) A written contract for the removal, collection, or disposal of commercial waste that contains no provision regarding duration shall be terminable at will by the customer.

(g) (1) Subdivisions (a) through (c) of this section shall not apply to containerized commercial waste awardees providing collection, removal or disposal of containerized commercial waste in accordance with an agreement with the Department to provide such containerized commercial waste collection, removal and disposal service citywide pursuant to section 16-1002 of the Administrative Code.

(2) An awardee providing containerized commercial waste collection, removal or disposal service citywide in accordance with such an agreement with the Department must not suspend or terminate such service to a customer unless at least 14 days' written notice to the customer is given. No contract for the removal, collection, or disposal of containerized commercial waste shall provide that an awardee may suspend or terminate service upon shorter notice.

(h) If a customer's service is suspended or terminated, the awardee shall provide written notification to the Department within 24 hours and shall include in this notification the customer name and address, reason for suspension or termination, and any unresolved customer complaints.

#### **§ 20-23 Non-Collection of Commercial Waste.**

(a) If a designated carter is precluded from collecting a customer's commercial waste on a particular day, due to a severe weather event, street closure, or other emergency as



determined by the Department, the designated carter must return to collect the commercial waste on the next business day when access to the premises is possible, or as otherwise agreed upon between the awardee and the customer. In such a case, the awardee must notify such customer no less than two hours after becoming aware of the situation that collection on the scheduled day is not possible, the reason therefor, and the awardee's expected timeframe for collecting the customer's waste.

(b) Except as provided in subdivision (a), an awardee and its designated carters may only refuse to collect commercial waste from a customer set out on a particular day, resulting in the non-collection of commercial waste, in the following circumstances:

(1) Overfilled containers;

(2) Designated recyclable materials or source separated organic waste with contamination of at least 10 percent;

(3) The bag or container cannot be safely lifted, container contents will not empty after tipping, and/or bags or containers are blocked or inaccessible for reasons other than those described in subdivision (a) of this section;

(4) Bags or containers set out for collection contain non-commercial waste not otherwise agreed upon by the customer and the awardee; or

(5) The customer has otherwise set out commercial waste in a form or manner that presents a direct health or safety threat to employees of the designated carter or to the public.

(c) Before refusing to collect commercial waste from a customer set out on a particular day in any of the circumstances described in subdivision (b) of this section, the awardee must ensure that all applicable procedures described in section 20-24 are followed, and the awardee must continue to provide commercial waste collection service at the customer's next scheduled pick-up in accordance with the awardee's agreement with the customer, except as otherwise provided in section 20-22.

**§ 20-24 Overfilled containers, contamination, infeasible collection and other non-conforming material; procedures for fees and non-collection.**

(a) Before imposing fees pursuant to subparagraphs (vii) through (ix) of paragraph (2) of subdivision (c) of section 20-21 or refusing to collect commercial waste from a customer on a particular day pursuant to subdivision (b) of section 20-23, an awardee and its designated carters must follow the procedures described in this section. Nothing in this section shall be construed to require an awardee to impose a fee or to refuse to collect any material.

(b) Overfilled containers. (1) First instance within a 12-month period: The designated carter must take a photograph of the overfilled container, collect the material, and leave a written notice approved by the Department informing the customer that: (i) the material collected was overfilled; (ii) if containers are overfilled in the future, the awardee may charge the customer applicable fees or may choose not to collect such container; and (iii) the amount of such fees. Nothing in this section shall be construed to require collection where such collection is infeasible because a customer sets out a bag or container that cannot be safely lifted or in a form or manner that otherwise presents a direct health or safety threat to employees of the designated carter or to the public, as provided in subdivision (d) of this section.

(2) Second and subsequent instances within a 12-month period: The designated carter must take a photograph of the overfilled container. The awardee may elect to collect the material and impose a fee in the customer's next monthly bill or, as an alternative, may choose not to collect the material. If the awardee chooses not to collect the material, the designated carter must affix a written non-collection notice approved by the Department to the uncollected container. At a minimum, such notice must provide the following information: (i) the awardee's reason for not collecting the material; (ii) information that will allow the customer to correct the problem; and (iii) the awardee's telephone number for any further questions. If the awardee fails to document the reasons for not collecting the material on that day, the refusal to collect will be treated as a missed collection.

(c) Designated recyclable materials or source separated organic waste with contamination of at least 10 percent. (1) First instance within a 12-month period: If the designated carter determines by visual inspection that a bag or container of designated recyclable materials or source separated organic waste is at least 10 percent contaminated, the designated carter must take a photograph of the contaminated bag or container, collect the material, and leave a written notice approved by the Department informing the customer that: (i) the material collected was contaminated; (ii) if bags or containers are contaminated in the future, the awardee may charge the customer applicable fees or may choose not to collect such bag or container; and (iii) the amount of such fees. The awardee must also include information with the customer's next monthly bill regarding the City's recycling and organics requirements, recommended corrective action, and where the customer can find more information on the subject.

(2) Second and subsequent instances within a 12-month period: If the designated carter determines by visual inspection that a bag or container of designated recyclable materials or source separated organic waste is at least 10 percent contaminated, the designated carter must take a photograph of the contaminated bag or container. The awardee may elect to collect the material and impose a fee in the customer's next monthly bill or, as an alternative, may choose not to collect the material. If the awardee chooses not to collect the material, the designated carter must affix a written non-collection notice approved by the Department to the uncollected bag or container. At a minimum, such notice must provide the following information: (i) the awardee's reason

for not collecting the material; (ii) information that will allow the customer to correct the problem; and (iii) the awardee's telephone number for any further questions. If the designated carter fails to document the reasons for not collecting the material on that day, the refusal to collect will be treated as a missed collection.

(d) *Infeasible collection.* (1) If collection is infeasible because: (i) a customer sets out a bag or container that cannot be safely lifted or in a form or manner that otherwise presents a direct health or safety threat to employees of the designated carter or to the public; (ii) the container contents will not empty after tipping; or (iii) the bags or containers are blocked or inaccessible at the scheduled time of collection, the designated carter must take a photograph or otherwise document the reason why collection is infeasible.

(2) The designated carter must provide the customer with a written non-collection notice approved by the Department. At a minimum, such notice must provide the following information: (i) reason for not collecting the material; (ii) information that will allow the customer to correct the problem; and (iii) the awardee's telephone number for any further questions. If possible, the designated carter must affix such notice to the uncollected bag or container. If physically affixing such notice to the bag or container is not feasible, the designated carter must leave the notice at the customer's physical address. If the designated carter fails to document the reasons for not collecting the material on that day, the refusal to collect will be treated as a missed collection.

(3) If the awardee and customer agree that the designated carter will return at a different time to provide collection service after the condition has been corrected, the awardee may impose a fee in the customer's next monthly bill for the return pick-up, provided that the procedures described in this subdivision have been followed, including photo documentation of the reason why collection was infeasible at the first attempt.

(e) *Non-commercial waste and other non-conforming waste.* (1) If the customer sets out a bag or container that contains non-commercial waste not otherwise agreed upon by the customer and the awardee, the awardee may choose not to collect the material. In such a case, the designated carter must take a photograph of the non-commercial waste and affix a written non-collection notice approved by the Department to the uncollected bag or container. At a minimum, such notice must provide the following information: (i) the awardee's reason for not collecting the material; (ii) information that will allow the customer to correct the problem; and (iii) the awardee's telephone number for any further questions. If the designated carter fails to document the reasons for not collecting the material on that day, the refusal to collect will be treated as a missed collection.

(2) If the awardee believes a customer is depositing hazardous, radioactive, medical, or e-waste for collection, the awardee must immediately notify the Department in addition to following the procedures in paragraph (1) of this subdivision. If the generator of such waste is unknown, the awardee must work with the City to identify the generator of such waste.

**§ 20-25 Customer Service Plan.**

- (a) An awardee must establish and maintain a customer service plan in accordance with this section and the terms of its agreement with the Department pursuant to section 16-1002 of the Administrative Code. The awardee must comply with the terms of such customer service plan.
- (b) Such customer service plan must include, at a minimum, a description of:
- (1) Customer service support tools, including but not limited to: a dedicated phone line for receiving customer inquiries, service requests and complaints, which must be actively staffed during normal business hours and have the capability for receiving messages 24 hours a day, seven days a week;
  - (2) A company website, which must contain information regarding the awardee's name, office address, e-mail address, the customer phone number described in paragraph (1) of this subdivision, the maximum rates that the awardee is authorized to charge pursuant to the agreement entered into with the Department pursuant to section 16-1002, instructions for requesting initial service, and instructions for making customer complaints and service requests;
  - (3) A protocol for promptly addressing customer service requests and complaints;
  - (4) Performance metrics or other methods of measuring customer service, including but not limited to a process for tracking customer service requests and complaints and the awardee's response times for addressing such requests and complaints;
  - (5) Customer service standards, including but not limited to hours of operation and emergency contact protocols;
  - (6) The awardee's plan for addressing the language access needs of customers in the zone, including but not limited to an assessment of the primary languages spoken by customers in the zone and a description of the specific tools used to provide quality customer service to customers with limited English proficiency; and
  - (7) A process for customers to contest invoices, request changes to level of service provided, and request changes to costs for service based on changes in amount of waste generated by the customer; and
  - (8) The awardee's plans, if any, for the set-out of commercial waste in a manner that promotes the City's goals of improving cleanliness, rodent mitigation, order and safety on City sidewalks.

- (c) If a customer submits a missed collection complaint, the designated carter must return to the premises and collect the commercial waste that was missed within 12 hours of receiving such complaint, unless:
- (1) the awardee has elected non-collection of the commercial waste for reasons authorized in section 20-23 and in accordance with the applicable procedures described in section 20-24, or
  - (2) the awardee otherwise resolves the customer complaint in a manner agreed upon between the customer and the awardee.

**§ 20-26 Written service agreement.**

- (a) An awardee must enter into a written contract with each customer for the collection, removal, or disposal of commercial waste in accordance with the requirements of this section. Such written contract must comply with the applicable requirements of titles 16-A and 16-B of the Administrative Code and the applicable rules promulgated pursuant to such titles, all other applicable laws, and the terms of the agreement between the awardee and the Department under which the awardee is operating.
- (b) A contract between an awardee and a customer for the collection, removal or disposal of commercial waste shall:
- (1) Describe the following:
    - (i) Rates, including a clear description of any applicable fees that might be imposed pursuant to paragraph (2) of subdivision (c) of section 20-21;
    - (ii) Customer and awardee responsibilities;
    - (iii) For each waste stream: pick-up frequency and estimated pick-up time for each collection, and where agreed upon by the parties, a prescribed pick-up window; and
    - (iv) Dispute resolution protocols.
  - (2) State the estimated volume or weight of designated recyclable materials and the estimated volume or weight of source separated organic waste, if any, to be collected from such customer and transported pursuant to sections 20-31 and 20-32;
  - (3) Not extend beyond the last date the awardee is authorized to operate in the zone in which the customer is located under the awardee's agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code;
  - (4) Provide that the awardee must remove the customer's commercial waste from the location designated by the customer, provided that such location is consistent with all applicable laws, rules and regulations;

(5) Provide for not less than 14 days' written notice by the awardee if the awardee seeks to raise rates charged to a customer;

(6) Provide for not less than 7 days' written notice by the awardee if the awardee seeks to change pick-up times, except in unforeseen circumstances;

(7) Provide that the awardee must comply with titles 16-A and 16-B of the Administrative Code and any rules promulgated pursuant thereto and all other applicable laws, rules and regulations; and

(8) Provide the method by which the awardee will provide the customer with all applicable notices required pursuant to this chapter. Except where otherwise specifically provided by this chapter, such notices may be in the form of paper or electronic communication, as long as the recordkeeping requirements of this chapter and as set forth in the Agreement with the Department are met.

(c) (1) A standard contract form that an awardee proposes to use with its customers must be submitted to the Department within 60 days of entering into an agreement with the Department pursuant to section 16-1002 of the Administrative Code. An awardee must submit any subsequent changes in the standard contract to the Department 30 days prior to implementing such change. The Department will perform a legal review of each awardee's standard contract and may require changes to such standard contract form prior to its use by the awardee pursuant to the procedures described in such agreement with the Department.

(2) Nothing in this subdivision shall be construed to prevent an awardee and a customer from negotiating terms at variance with the standard contract, except that an awardee must not vary such contract in any manner inconsistent with title 16-A of the Administrative Code and any rules promulgated thereunder or 16-B of the Administrative Code and any rules promulgated thereunder.

(d) Prior to commencement of service, an awardee must prepare a written contract that clearly and legibly sets forth the terms and conditions of the agreement negotiated by the awardee and the customer and deliver such contract to the customer. Such contract must provide that it shall be effective only upon being dated and signed by the awardee and the customer's owner or authorized representative and that a change of any term or condition of such contract must be made in writing, dated, and signed by both the awardee and the customer's owner or authorized representative before such term or condition takes effect. One copy of such signed and dated contract and a copy of any signed and dated amendments must be provided to the customer's owner or authorized representative by the awardee.

(e) (1) If a customer has been assigned to the awardee by the Department pursuant to paragraph (4) of subdivision (e) of section 16-1002 of the Administrative Code or rules

promulgated pursuant to such section, the standard contract that the awardee has submitted to the Department pursuant to subdivision (c) of this section shall be deemed to be in effect, and the awardee shall provide commercial waste collection service at the level of service described in paragraph (2) of subdivision (a) of section 20-22 at the maximum rates the awardee is authorized to charge pursuant to the awardee's agreement with the Department pursuant to section 16-1002 of the Administrative Code, unless and until such customer and such awardee negotiate alternative terms by following the procedures in subdivision (d) of this section or the customer selects a different awardee pursuant to paragraph (4) of subdivision (e) of section 16-1002.

(2) Upon notification by the Department that it has been assigned a customer by the Department pursuant to paragraph (4) of subdivision (e) of section 16-1002 of the Administrative Code or other applicable law, the awardee shall mail the awardee's standard contract to such customer by certified mail, retain the signed returned postal receipt during the duration of service to the customer, and make available to the Department upon its request a copy of such contract and such return receipt, unless and until such customer and such awardee negotiate alternative terms by following the procedures in subdivision (d) of this section.

- (f) An awardee must comply with the service and other terms set forth in such contract with the customer, including the agreed-upon frequency and schedule for the collection of commercial waste. Such schedule must not be altered without the written agreement of the customer's owner or authorized representative.
- (g) No contract or contract amendment shall provide that the awardee is exempt from liability for damage caused by its negligence or the negligence of any of its agents.
- (h) A contract that does not meet the requirements of federal, state or local law is voidable by either party.

**§ 20-27 Billing and payment.**

(a) An awardee must provide a consolidated bill, statement, or invoice at least once every month to every customer. Such bill, statement or invoice may be provided electronically, unless the customer requests a paper version. Such bill, statement or invoice must include all costs for services provided, including if an awardee uses one or more subcontractors to provide services to the customer. Such bill, statement, or invoice must conspicuously contain all of the following:

(1) The awardee's name, address, telephone number, and Business Integrity Commission license number;

(2) The customer's name and complete address;

(3) The maximum rates the awardee is authorized to charge such customer pursuant to the awardee's agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code with a statement indicating that the rates so identified are maximum legal rates and that lower rates may be lawfully charged;

(4) The negotiated rate on which the bill, statement, or invoice is based, broken down into the component parts of such rate, including the rates based on frequency of collection of refuse, designated recyclable materials and source separated organic waste, if applicable, and the rates based on volume or weight of refuse, designated recyclable materials and source separated organic waste collected, if applicable;

(5) A notice to customers as follows: "NOTICE TO CUSTOMERS—The maximum rates that may be charged by your commercial waste removal business are regulated by the New York City Department of Sanitation. If you should have a question or a complaint concerning commercial waste removal, contact the New York City Department of Sanitation";

(6) An itemized list of actual charges being imposed detailing:

(i) The number of weekly pick-ups of each waste stream;

(ii) The weight or volume of refuse, designated recyclable materials and source separated organic waste, if any, removed, and the charge for such weight or volume of such waste, broken down by waste stream, or, where the customer is being charged on a "flat" or "average" billing rate, the estimated volume or weight of refuse, designated recyclable materials and source separated organic waste, if any, removed, and the charge for such estimated weight or volume of such waste, broken down by waste stream, along with a statement as to the method by which the estimated volume or weight was determined; and

(iii) Any additional charges or fees imposed; and

(7) a separate statement of sales tax collected.

(b) Such bill, statement or invoice must be on a form approved by the Department.

(c) (1) An awardee may only accept cash payments from a customer for the collection, removal, or disposal of commercial waste:

(i) At the awardee's primary office location or primary garage for storing commercial waste vehicles; or

(ii) At a customer service location that has been approved by the Department.

(2) Under no circumstances may an awardee accept cash payments for such services at the customer's business location.



(3) An awardee must provide a receipt to the customer for all cash payments.

(4) An awardee may not charge a customer any additional fees or charges for processing or accepting non-cash payments for commercial waste collection, removal or disposal services, except as authorized pursuant to subparagraph (xiii) of paragraph (2) of subdivision (c) of section 20-21.

(d) An awardee may not charge new or existing customers for payments not collected from other customers.

(e) The awardee shall not assess new customers for payments owed from a previous customer. The awardee shall not charge existing customers in full or in part for payments owed from other customers.

### **§ 20-28 Notifications.**

(a) An awardee must provide each customer with such informational notices as the Department shall require throughout the term of service.

(b) An awardee must comply with the notification protocols described in the awardee's zero waste plan for notifying the customer of significant designated recyclable material content in refuse and providing recommendations for compliance with the City's recycling requirements and diversion of designated recyclable materials, in accordance with section 20-33.

(c) On a monthly basis, an awardee must provide the Department with the following information for the previous month, in the form specified by the Department:

(1) Any non-collections and the reasons therefor;

(2) Any additional fees imposed and the reasons therefor; and

(3) A list of customers to which the awardee or any of its designated carters provided notifications of significant designated recyclable material content in refuse pursuant to subdivision (b) of this section.

§ 8. Chapter 20 of title 16 of the rules of the city of New York is amended by adding a new subchapter C to read as follows:

### **Subchapter C: Operations; delivery of service**

### **§ 20-30 Restrictions on operation in multiple zones.**

- (a) For purposes of this section, the term “collection route” means a trip by a commercial waste vehicle that: (i) begins at either the garage or yard where such commercial waste vehicle is parked while not in use, or at a waste transfer station, processing facility or other location where waste is dumped from such commercial waste vehicle; (ii) includes pick-ups of commercial waste from customers; and (iii) terminates either at such garage or yard, or with the delivery of such commercial waste to such a waste transfer station, processing facility or other location where such waste is dumped.
- (b) An awardee may only provide commercial waste collection, removal or disposal service to a customer located in a zone in which the awardee is authorized to operate pursuant to an agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code.
- (c) If an awardee is authorized to operate in more than one zone pursuant to an agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code, neither the awardee nor any of the awardee’s designated carters shall operate a collection route with pick-ups of commercial waste from customers in more than one zone, except as provided in subdivision (d).
- (d) Subdivision (c) of this section does not apply to an awardee authorized to operate in more than one zone pursuant to an agreement with the Department entered into pursuant to section 16-1002 where:
- (1) The awardee is providing commercial waste collection, removal or disposal service outside of standard service hours;
  - (2) The awardee is collecting, removing or disposing of source separated organic waste, and such awardee’s agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code provides that subdivision (c) of this section does not apply to such collection, removal or disposal; or
  - (3) The awardee has received prior written approval from the Department to provide service without following the requirements of subdivision (c) in specific circumstances that further the purposes of title 16-B of the Administrative Code, provided that such awardee is operating in accordance with the terms of such approval.
- (e) This section does not apply to the collection, removal or disposal of containerized waste provided in accordance with an agreement with the Department entered into pursuant to section 16-1002 of the Administrative Code that authorizes such collection, removal or disposal of containerized commercial waste to be performed citywide.

**§ 20-31 Recycling requirements for awardees.**

(a) Recycling collection required. (1) An awardee must provide designated recyclable materials collection service to any customer of the awardee, unless such customer is not required to arrange with a private carter for the collection of designated recyclable materials pursuant to section 1-10 of this title and section 16-306 of the Administrative Code.

(2) This subdivision shall only apply to the collection of containerized commercial waste citywide where the agreement between the awardee and the Department so provides.

(b) Designated carters required to recycle. When collecting or transporting designated recyclable materials that have been source-separated as required by subdivision (b) of section 1-10 of this title or materials that have been commingled pursuant to subdivision (c) of section 1-10 and paragraph (2) of subdivision (c) of this section, a designated carter must transport such materials to putrescible or non-putrescible transfer stations or other facilities that accept such materials for recycling, reuse or sale for reuse. Such designated carter shall not bring such materials for disposal, or cause such materials to be brought for disposal, to any solid waste disposal facility, whether or not such disposal facility is operated by the Department, except in an amount that could not have been detected through reasonable inspection efforts by the designated carter.

(c) Collection restrictions for designated recyclable materials.

(1) Waste that has been source-separated for recycling by the customer.

(i) A designated carter collecting materials that have been source-separated by the customer may not commingle in the same vehicle compartment any of the following: (1) designated recyclable paper, (2) designated recyclable metal, glass, and plastic, (3) yard waste, (4) textiles, (5) construction and demolition debris, (6) organic waste, (7) any other materials that have special collection requirements pursuant to applicable local, state or federal law, or (8) other solid waste.

(ii) Designated recyclable metal, glass and plastic may be commingled together, but may not be commingled in the same vehicle compartment with designated recyclable paper unless such materials are collected using single stream collection of recyclables pursuant to paragraph (2) of this subdivision.

(2) Commingling of certain designated recyclable materials. A designated carter may only collect waste consisting of designated metal, glass, and plastic commingled with designated recyclable paper if such designated carter is operating pursuant to an agreement between an awardee and the Department that authorizes such designated carter to use single stream collection of recyclables. The Department will only authorize use of single stream collection of recyclables where the awardee has demonstrated through its waste management plan, submitted pursuant to paragraph 5 of subdivision b

of section 16-1002 of the Administrative Code, that the awardee intends to tip the commingled metal glass plastic and paper at a facility that has the capability to sort such commodities appropriately into separate, marketable commodity streams.

- (d) Notice to customer. Upon request by a customer, an awardee must inform such customer of the location where such awardee transported such customer's designated recyclable materials for recycling, reuse or sale for reuse.
- (e) Signage. Upon request by a customer, an awardee must provide such customer with all signage and decals that the customer is required to post pursuant to section 1-10 of this title, in a form and format approved by the Department.
- (f) Penalties. Any person who violates any provision of this section will be liable for civil penalties provided for under paragraph (1) of subdivision (b) of section 16-1015 of the Administrative Code. Paragraph (1) of subdivision (b) of section 16-1015 provides for a civil penalty in the amount of \$2,500 for the first violation, and, for subsequent violations that occur within a two-year period of any previous violation, \$5,000 for the second violation and \$10,000 for any subsequent violation.

#### **§ 20-32 Collection of organic waste that has been source-separated.**

- (a) Organics collection required. (1) An awardee must provide organic waste collection services to any customer that is a designated covered establishment pursuant to subdivision b of section 16-306.1 of the Administrative Code and that has elected collection by a private carter of organic waste pursuant to subdivision c of such section.  
  
(2) An awardee must offer organic waste collection services to any customer that is not a designated covered establishment pursuant to subdivision b of section 16-306.1 in accordance with the terms of the agreement entered into between such awardee and the Department pursuant to section 16-1002 of the Administrative Code.  
  
(3) This subdivision shall only apply to the collection of containerized commercial waste citywide where the agreement between the awardee and the Department so provides.
- (b) No commingling of organic waste. Organic waste shall not be commingled with any other solid waste and shall not be collected in the same truck compartment as other solid waste.
- (c) Collection restrictions for source separated organic waste. Any source separated organic waste collected by a designated carter from a customer must be delivered by such designated carter either:
  - (1) directly to an organic waste processing facility for purposes of composting, aerobic digestion or anaerobic digestion; or

(2) to a putrescible transfer station that: (i) is authorized by the New York State Department of Environmental Conservation and the Department to handle source separated organic waste or is otherwise in compliance with all applicable state and local permitting requirements regarding handling of source separated organic waste, and (ii) has represented to the awardee that it will deliver such organic waste to an organic waste processing facility for purposes of composting, aerobic digestion or anaerobic digestion.

(d) *Delivery of organic waste for other uses.* (1) For purposes of this subdivision, the term "organic waste" has the same meaning as set forth in section 16-303 of the Administrative Code.

(2) Notwithstanding any other provision of this section, a designated carter that collects organic waste from a customer may deliver such waste to:

- (i) A farm or other facility for purposes of feeding animals; or
- (ii) Upon approval by the Department, any other third party, for biological, chemical or mechanical processing of such waste for the production of a commodity, material or other product that has value.

(3) In no event shall a designated carter deliver organic waste to a third party to be incinerated or otherwise cause organic waste to be incinerated.

(4) No organic waste shall be collected by a designated carter from a customer that has source separated such waste, except as authorized in this section.

(5) Nothing in this section shall preclude an awardee or any of its designated carters from collecting or facilitating the collection of edible food from a customer for delivery to a food bank, soup kitchen or other entity for purposes of feeding people, provided all applicable health, safety and legal requirements are met.

(e) *Signage.* Upon request by a customer, an awardee must provide such customer with all signage and decals that the customer is required to post pursuant to section 1-11 of this title, in a form and format approved by the Department.

(f) *Penalties.* Any person who violates any provision of this section will be liable for civil penalties provided for under paragraph (1) of subdivision (b) of section 16-1015 of the Administrative Code. Paragraph (1) of subdivision (b) of section 16-1015 provides for a civil penalty in the amount of \$2,500 for the first violation, and, for subsequent violations that occur within a two-year period of any previous violation, \$5,000 for the second violation and \$10,000 for any subsequent violation.

**§ 20-34 Commercial waste diversion and disposal; recordkeeping; written agreements; reporting.**

(a) All awardees and designated carters must ensure proper disposal of all commercial waste collected, consistent with the awardee's waste management plan, Zero Waste Plan, and all other terms of the agreement entered into with the Department pursuant to section 16-1002 under which the awardee is operating, and all applicable laws, rules and regulations.

(b) *Dump tickets and other delivery receipts.* (1) Each time a designated carter delivers commercial waste from a customer to a waste transfer station, processing facility or any other location where such waste is dumped directly from the commercial waste vehicle in which such waste was collected from such customer, such designated carter must obtain a dump ticket, delivery receipt or other written record documenting such delivery, including the amount and type of commercial waste delivered.

(2) Such records must be retained by the designated carter and the awardee for five years, and must be made available for inspection by the Department.

(c) (1) An awardee must collect and maintain information on the final processing location, final disposal location, final use, or final reuse of all commercial waste collected by such awardee and any of its designated carters, disaggregated by waste stream. Unless the awardee or its designated carters is delivering such commercial waste directly from the customer to the location of such final disposal, use or reuse, the awardee must collect and maintain information regarding where such commercial waste is sent after the awardee or its designated carters delivers the commercial waste from the customer to a waste transfer station, processing facility or other location.

(2) An awardee must collect and maintain information on the mode of transport of such commercial waste from each such transfer station, processing facility or other location.

(3) An awardee may meet the requirements of this subdivision either by following the procedures described in subdivisions (d) through (g) of this section, or by otherwise collecting and maintaining the information required pursuant to this subdivision in a verifiable form and manner approved by the Department.

(d) *Designated recyclable materials.* (1) An awardee may fulfill the requirements of subdivision (c) of this section by entering into a written agreement with each transfer station or other facility that accepts designated recyclable materials from such awardee or any of its designated carters in accordance with section 20-31.

(2) Such agreement must:

- (i) Include the name and contact information of the owner of the transfer station or other facility and the address of such transfer station or facility;
- (ii) Be signed by both the awardee and such owner; and
- (iii) In the case of an agreement with a transfer station, provide that such transfer station must report to the awardee on an annual basis the name and address of each material recovery facility or other destination where designated recyclable materials received by such transfer station are sent, and the mode of transport of such designated recyclable materials to each such facility or destination. Such information may be provided in the aggregate for all designated recyclable materials received by such transfer station.

(e) *Organic waste.* (1) An awardee may fulfill the requirements of subdivision (c) of this section by entering into a written agreement with each processing facility or transfer station that accepts organic waste from such awardee or any of its designated carters in accordance with section 20-32.

(2) Such agreement must:

- (i) Include the name and contact information of the owner of the processing facility or transfer station and the address of such facility or transfer station;
- (ii) Be signed by both the awardee and such owner; and
- (iii) In the case of an agreement with a transfer station, provide that such transfer station must report to the awardee on an annual basis the name and address of each final destination of organic waste received by such transfer station and the mode of transport of such organic material to each such destination. Such information may be provided in the aggregate for all organic waste received by such transfer station.

(3) Any awardee that provides for collection of waste in accordance with subdivision (d) of section 20-32 shall enter into a written agreement with the entity that accepts such waste that meets the requirements of this subdivision. Such agreement must also include information regarding the final destination and the end use of such waste.

(f) *Refuse.* (1) An awardee may fulfill the requirements of subdivision (c) of this section by entering into a written agreement with each transfer station or solid waste disposal facility that accepts refuse from such awardee or any of its designated carters after collection from the awardee's customers.

(2) Such agreement must:

- (i) Include the address and name and contact information of the owner of such transfer station or solid waste disposal facility;
- (ii) Be signed by both the awardee and such owner;

(iii) In the case of an agreement with a transfer station, provide that such transfer station must report to the awardee on an annual basis the name and address of each final disposal location of all refuse received by such transfer station and the mode of transport of such refuse to such location. Such information may be provided in the aggregate for all refuse received by such transfer station.

- (g) Upon request by a customer, an awardee must furnish to such customer a copy of any such agreement required by this section. A copy of such agreement must also be provided to the Department upon request.
- (h) Nothing in this section shall relieve the awardee from meeting any additional obligation to collect, maintain and report information regarding the final disposal locations, final processing locations, final uses, or final reuses of commercial waste collected by such awardee as set forth in this title or the agreement between such awardee and the Department entered into pursuant to section 16-1002 of the Administrative Code.
- (i) Penalties. Any person who violates any provision of this section will be liable for civil penalties provided for under paragraph (1) of subdivision (b) of section 16-1015 of the Administrative Code. Paragraph (1) of subdivision (b) of section 16-1015 provides for a civil penalty in the amount of \$2,500 for the first violation, and, for subsequent violations that occur within a two-year period of any previous violation, \$5,000 for the second violation and \$10,000 for any subsequent violation.

#### **§ 20-35 Exempt waste streams.**

- (a) Any awardee that collects waste that does not meet the definition of commercial waste set forth in section 16-1000 of the Administrative Code from a customer within a commercial waste zone must comply with all applicable laws, rules and regulations governing the collection, transport and disposal of such waste.
- (b) Penalties. Any person who violates any provision of this section will be liable for civil penalties provided for under paragraph (1) of subdivision (b) of section 16-1015 of the Administrative Code. Paragraph (1) of subdivision (b) of section 16-1015 provides for a civil penalty in the amount of \$2,500 for the first violation, and, for subsequent violations that occur within a two-year period of any previous violation, \$5,000 for the second violation and \$10,000 for any subsequent violation.

#### **§ 20-36 Sign or decal required.**

- (a) An awardee must provide each customer with a sign or decal that conspicuously and legibly displays the awardee's name, the awardee's license number issued by the business integrity commission pursuant to title 16-A of the Administrative Code, and a unique customer identifier number created by the awardee and assigned to such



customer by the awardee for purposes of assisting the Department in tracking the awardee's compliance with the requirements of title 16-B and the Department's rules.

- (b) The awardee must submit to the Department for approval a sample of the sign or decal that the awardee intends to use prior to distributing the sign or decal to customers.
- (c) The awardee must inform the customer of its obligation to post the sign or decal in accordance with the requirements of subdivision (b) of section 16-116 of the Administrative Code and the rules of the Department.
- (d) An awardee is prohibited from charging a fee to any customer for a sign or decal required by this section.

### **§ 20-37 Compliance with all applicable laws and regulations.**

An awardee must comply with all applicable laws, rules and regulations, including, but not limited to, applicable rules of the Business Integrity Commission, the Department of Environmental Protection, the Department of Health and Mental Hygiene, and the Department of Transportation relating to vehicle specifications, sanitary requirements, and the handling, transport, receipt, transfer or disposal of trade waste, regulated medical waste or waste containing asbestos or other hazardous, toxic or dangerous material.

### **§ 20-38 Operations.**

- (a) An awardee and each designated carter must maintain all premises where commercial waste vehicles and machinery are kept in a safe and sanitary condition.
- (b) All commercial waste vehicles must be loaded and operated at all times in such a manner and by such methods so as to prevent the release or discharge of dust and debris and to prevent the spilling of any materials upon sidewalks or streets.
- (c) A loading hopper and the mechanism and controls by which it is operated must be constructed, maintained, and operated so as to prevent any of the contents of such loading hopper from being released or discharged in any manner, other than into and within the totally permanently enclosed body.
- (d) Every operator of a commercial waste vehicle must immediately remove from sidewalks or streets any materials spilled, littered, or thrown thereon in loading operations, in the handling and return of receptacles, or while traveling.
- (e) Materials loaded into commercial waste vehicles must be dumped or unloaded and disposed of only at points where disposal of the particular material is allowed by

applicable law.

- (f) Commercial waste vehicle operators must exercise care at all times to prevent making unnecessary or avoidable noise in the course of operating such vehicles or loading commercial waste, and must comply with section 24-225 of the Administrative Code.
- (g) Commercial waste vehicles with open top box type bodies and containers on or in platform or panel type body vehicles shall not be filled or loaded over their capacity as specified by the vehicle manufacturer. In no case shall the body or container of such vehicles be filled or loaded to a level that would allow water or solid waste to spill out from the vehicle.
- (h) Each open top box type vehicle body shall be loaded only from front to rear, and the partial load shall be kept securely and fully covered at all times. Each such vehicle shall have a heavy tarpaulin cover which shall be secured over the vehicle body at all times other than when the vehicle body is being loaded or unloaded or is empty.
- (i) Materials loaded in or upon commercial waste vehicles must not be re-worked, re-sorted, picked over, or re-handled while the vehicle is on the street, and material shall not be transferred or re-loaded from a vehicle on the street to or into any other vehicle.
- (j) Materials must not be carried at any time upon any commercial waste vehicle other than within the vehicle body, or within containers on or in the vehicle body provided such materials are to be removed in such containers.
- (k) After materials are dumped for disposal the body of the commercial waste vehicle and any container used must be emptied thoroughly and cleared of all loose materials.
- (l) Commercial waste vehicles and containers must be thoroughly cleaned inside and outside frequently so that they present a good appearance and are maintained free of dirt and offensive odors.
- (m) An awardee and each designated carter must provide for the general cleanliness of, and the control of odors and extermination of pests and rodents on and around, commercial waste vehicles and the locations where such vehicles are stored when not in use.
- (n) An awardee must provide for off-street parking for commercial waste vehicles.

- (o) An awardee and each designated carter must keep closed the doors of any garage, or the gate to any outdoor premises, from which commercial waste vehicles are dispatched except when such vehicles are entering or leaving such garage or premises. The perimeter of any outdoor location used to store vehicles shall be surrounded by a fence or wall that is at least 8 feet high.
- (p) An operator of a commercial waste vehicle must comply with all traffic laws, rules and regulations, and must not allow such vehicle to stand with the engine idling in violation of section 24-163 of the Administrative Code.
- (q) Any receptacle for the deposit of commercial waste provided by an awardee to a customer must be made of metal or other material of a grade and type acceptable to the Department, the Department of Health and Mental Hygiene and the Department of Housing Preservation and Development, as provided in section 16-120 of the Administrative Code. Receptacles provided by the awardee must be constructed so as to hold their contents without leakage, and must be maintained by the awardee in such condition. All containers provided by the awardee must be provided and maintained with tight fitting covers.
- (r) Any container provided by an awardee to a customer for the collection of organic waste must:
- (1) Meet the labeling requirements set forth in section 20-39 of this chapter;
  - (2) Have a lid and a latch, lock, or other fastening or sealing mechanism or cord that keeps the lid closed and is resistant to tampering by rodents or other wildlife; and
  - (3) Have the capacity to meet the disposal needs of the customer.
- (s) After removing the commercial waste of a customer from a receptacle, a designated carter must return the receptacle to a place inside or in the rear of the premises of the customer. If this is not feasible, the designated carter must place such receptacle against the building line. A designated carter must not return such receptacle to a place or in such a manner that obstructs a sidewalk or other public right of way.
- (t) When removing, collecting or disposing of commercial waste, a designated carter must keep the sidewalk, flagging, curbstone and roadway abutting any area from which such waste is removed free from obstruction, garbage, litter, debris and any other offensive material resulting from the removal by the awardee of such commercial waste.
- (u) An awardee must immediately clean up any oil, hydraulic, or other fluid that leaks or spills from the awardee's or any of its designated carters' vehicles. Upon notification of

any leaks or spills, the awardee must initiate its clean-up activities within 2 hours, and must complete its clean up within 24 hours, in a manner consistent with all applicable laws and rules. The awardee must assume all costs associated with clean-up activities.

**§ 20-39 Labeling of containers.**

- (a) Each container from which commercial waste is collected by a designated carter must be labeled with the container's volume capacity in either cubic yards or gallons. Such label must be conspicuous and legible on the front of the container.
- (b) If a container is provided by an awardee, the awardee must imprint and maintain on the container the awardee's name and license number and the volume of the container as required by subdivision (a). An awardee must, at no charge, mark each unmarked container provided by a customer with the name of the owner of the container and the volume of the container as required by subdivision (a).
- (c) Any container provided by an awardee to a customer for the collection of designated recyclable materials must be labeled to indicate that only designated recyclable materials may be placed in such container.
- (d) Any container provided by an awardee to a customer for the collection of organic waste must be labeled to indicate that only organic waste may be placed in such container.

**§ 20-40 Routes and schedules.**

An awardee must maintain records of all collection routes and schedules for the collection of commercial waste, and must make such records available to the Department for inspection upon request.

**§ 20-41 Protection of private and public property.**

An awardee and each designated carter must, to the greatest extent possible, prevent damage to public and private rights of way and property. If an awardee or any of its designated carters damages private property, it must immediately notify the property owner where feasible. If an awardee or any of its designated carters damages public property, it must immediately notify the Department and follow any Department directives, including any directives to notify and cooperate with other City agencies. An awardee shall be responsible for all costs associated with the repair or replacement of property that has been damaged by the equipment, employees or agents of the awardee or any of its designated carters, excluding damage from normal wear and tear. An awardee must promptly investigate and respond to any claim concerning property damage. If the Department notifies the awardee of a claim concerning any such damage, the awardee must investigate and respond to the Department within 3 business days.

**§ 20-42 Emergency services and response requirements.**

An awardee must designate a person or persons as the emergency contact to respond to emergencies. Such person or persons must be available 24 hours per day, 7 days per week. An awardee must follow its written Emergency Action Plan included in the agreement between the awardee and the Department, as required by paragraph (11) of subdivision (c) of section 16-1002 of the Administrative Code.

**§ 20-43 Vehicle collisions.**

In the event of a collision involving a commercial waste vehicle and any other vehicle, cyclist, or pedestrian, at any location, the awardee must notify the Department immediately, except where all of the following circumstances are met:

- (a) The collision does not result in injury to any person;
- (b) The collision does not involve a cyclist or pedestrian; and
- (c) The accident is not required to be reported to the New York State Department of Motor Vehicles on form MV-104 pursuant to section 605 of the New York State Vehicle and Traffic Law, or any subsequent form pursuant to such section.

**§ 20-44 Vehicle maintenance and condition.**

a. The awardee and each designated carter must keep their commercial waste vehicles and equipment in good repair and condition so as to prevent leaks from oil and hydraulic systems, as well as to ensure waterproofing of all seals and enclosures. All commercial waste vehicles must be labeled with the name of the awardee or designated carter.

b. The awardee must ensure that the engine particulate filter and emissions control technology required pursuant to section 24-163.11 of the Administrative Code are working properly on each commercial waste vehicle.

§ 9. This rule shall take effect as follows:

1. The rule shall take effect in each commercial waste zone on the implementation start date for such zone set by rule of the department of sanitation pursuant to paragraph 3 of subdivision e of section 16-1002 of the Administrative Code, except that section 20-30 of title 16 of the rules of the city of New York, as added by section 8 of this rulemaking, shall take effect in each commercial waste zone on the final implementation date for such zone set by rule of the department of sanitation pursuant to paragraph 3 of subdivision e of section 16-1002 of the Administrative Code;

2. The rule shall take effect with respect to Citywide containerized commercial waste collection on the implementation start date for Citywide containerized commercial waste collection set by rule of the department of sanitation; and

3. In accordance with subdivision c of section 25 of local law number 199 for the year 2019, a licensee, as such term is used in title 16-A of the Administrative Code, operating within such zone pursuant to a contract with a commercial establishment entered into prior to such implementation start date may continue to provide commercial waste collection, removal or disposal services pursuant to such contract in accordance with the provisions title 16-A of the Administrative Code and any rules promulgated thereunder until the final implementation date for such zone established by the commissioner of sanitation pursuant to paragraph 3 of subdivision e of section 16-1002 of the Administrative Code.