

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

What are we proposing? DSNY is proposing to amend its rule relating to the use of certain receptacles by entities receiving curbside collection from a private carter.

When and where is the hearing? DSNY will hold a public hearing on the proposed rule. The public hearing will take place via Microsoft Teams at 1:00 PM on August 8, 2024 using the following link:

https://teams.microsoft.com//meetup-join/19%3ameeting_MDRmZjZiMzgtN2FhZC00ZjQxLTNmYjgtMTMyNWUyNDZiNGE5%40thread.v2/0?context=%7b%22Tid%22%3a%2232f56fc7-5f81-4e22-a95b-15da66513bef%22%2c%22Oid%22%3a%221d3255a2-4904-4aaa-899e-3f943348182b%22%7d

Meeting ID: 239 740 152 34

Passcode: yoMS9s

Dial in by phone

[+1 646-893-7101,494185782#](tel:+16468937101494185782) United States, New York City

Phone conference ID: 494 185 782#

Join on a video conferencing device

Tenant key: cityofnewyork@m.webex.com

Video ID: 111 470 042 0

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

- **Website.** You can submit comments to the DSNY through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dsny.nyc.gov.
- **Mail.** You can mail written comments to DSNY, 125 Worth Street, Room 710, New York, NY 10013.

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

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

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

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

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

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

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

Statement of Basis and Purpose

DSNY rules currently allow for all commercial establishments that receive curbside collection from a private carter to set out their waste and recyclable materials within one hour of closing, provided that the scheduled collection occurs before the establishment next reopens for business and only if such materials are placed out for collection in receptacles with tight-fitting lids. Those establishments that place materials out for collection in bags, regardless of the time they close, may place such materials at the curb no earlier than 8:00 p.m.

DSNY rules currently require that all commercial establishments set out any putrescible solid waste at the curb for private carter collection in rigid containers with tight-fitting lids. This new proposed rule would amend this rule and expand this requirement to include any entity, and not just commercial establishments, that receives private carter collection. Non-commercial establishments that receive private carter collection may request a waiver from the Department from such requirements if compliance would create a public safety hazard for pedestrians or pose an unreasonable hardship. Examples of such non-commercial establishments include office buildings and hospitals. A waiver would be available to non-commercial establishments receiving private carter collection but not to commercial establishments because commercial establishments were already subject to containerization requirements before the adoption of this rule without being eligible for a waiver and the non-commercial establishments receiving private carter collection include very large buildings which are more likely to struggle with existing container solutions. Instructions relating to such waiver requests would be outlined on the Department's website. There will also be an appeals process for those buildings or entities that are denied such waiver request. The proposed rule also eliminates the category of "chain stores" as it no longer applies since all commercial establishments are now covered.

These changes are a part of the City's commitment to cleaning up New York City streets and reducing food sources for rats. All entities that receive private carter collection, other than commercial establishments, are generators of putrescible waste, including organics, and bags of waste set out for collection on the curb, even when in compliance with existing waste set out requirements, attract rats and vermin and are unsightly. Requiring everyone receiving private carter collection who produces any amount of food waste to place their putrescible waste in sealed containers will meaningfully limit potential food sources for vermin while also helping to keep our sidewalks free of unattractive piles of black bags.

These changes align with other City initiatives to increase the use of containers for waste storage and collection, creating cleaner, more livable, and more vibrant streets and neighborhoods across New York City.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Section 1-02.4 of Title 16 of the Rules of the City of New York is amended to read as follows:

§ 1-02.4 [Receptacles Required for Certain Commercial Establishments] Receptacle Requirements for Entities Receiving Curbside Collection from a Private Carter.

(a) *Definitions.*

1. The terms “catering establishment”, “food manufacturer”, “food preparation establishment”, “food service establishment”, “food wholesaler”, and “retail food store” have the same meanings as in § 16-306.1 of the Administrative Code.

2. The term “chain of stores” means a commercial establishment that operates five or more stores located within the city of New York that are engaged in the same general field of business and conduct business under the same business name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

3.] [The] For purposes of this section, the term “commercial establishment” means an entity that is required to provide for the removal of waste pursuant to the provisions of § 16-116 of the Administrative Code.

(b) The following must set out any putrescible solid waste, including refuse and organic waste, at the curb for private carter collection in rigid receptacles with tight-fitting lids, in accordance with 16 RCNY § 1-02.1(b), (d) and (e):

1. [Catering establishments, food manufacturers, food preparation establishments, food service establishments, food wholesalers, and retail food stores.

2. A commercial establishment that is part of a chain of stores and that is not included pursuant to paragraph (1) of this subdivision.

3. Any] All commercial [establishment receiving] establishments that receive curbside collection of waste by a private carter [that is not included pursuant to paragraphs (1) or (2) of this subdivision].

2. Any other entity that receives curbside collection of waste by a private carter that is not defined in subdivision (a) of this section.

(c) The requirements of this section do not apply to recyclable materials other than organic waste.

(d) The requirements of this section do not apply to [commercial establishments] those entities that receive off-street collection, including collection from inside a loading dock, by a private carter.

(e) Notwithstanding the requirements of this section, [commercial establishments] those entities that receive private carter collection must comply with all laws, rules and regulations, including, but not limited to, the rules and regulations of the Department of Health and Mental Hygiene with respect to the management of waste.

(f) Notwithstanding the requirements of this section, any entity included in paragraph 2 of subdivision (b) of this section may request a temporary waiver from the Department from the requirements of this section if compliance would create a public safety hazard for pedestrians or if compliance with these requirements would pose an unreasonable hardship, provided that:

1. Entities must submit a waiver request using a form available on the Department's website;

2. The Department will notify such entity within 60 days if such temporary waiver has been granted or denied;

3. Entities denied a temporary waiver have 30 days to submit an appeal in writing to the Commissioner. The Commissioner will issue a decision on such appeal in a reasonable time, and such decision will be deemed a final determination. Such entity will not be required to comply with the requirements of this section until a final determination is made by the Department; and

4. Such temporary waiver will only be in effect until the Department implements a containerization solution that can accommodate the volume of refuse that such entity regularly produces without creating a public safety hazard for pedestrians or an unreasonable hardship.

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

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

**RULE TITLE: Use of Certain Receptacles by Entities Receiving Curbside Collection from a
Private Carter**

REFERENCE NUMBER: DSNY-41

RULEMAKING AGENCY: Department of Sanitation

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

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

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

May 17, 2024
Date

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

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

RULE TITLE: Use of Certain Receptacles by Entities Receiving Curbside Collection from a Private Carter

REFERENCE NUMBER: 2024 RG 042

RULEMAKING AGENCY: Department of Sanitation

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

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

/s/ STEVEN GOULDEN
Senior Counsel

Date: May 17, 2024